The Chicago Center
Digest
Mishna Berura
THE DAILY RESOURCE FOR MISHNA BERURA YOMI
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סימן ת"ט סעיף י"א

Overview

Siman 409 Seif 11:

If someone was travelling and recognizes a tree or fence 2000 *amos* away and out of concern that it will become dark before he reaches that location he declares his residence at the trunk, he acquires residence at the trunk and from there measures 2000 *amos*. Even if he cannot reach that location walking at an average pace and would have to run, it is permitted for him to walk there slowly even though he will not reach that place before Shabbos. If, however, he could not reach that place altogether before Shabbos he may not move from his place since he intended to uproot his present residence and was unsuccessful at establishing his residence in his preferred location. The above is true when he specified 4 *amos* that are within his 2000 *amos*, for example, he declared his residence at the trunk and from his present location to the trunk is not more than 2000 *amos*. If the entire tree is not within his 2000 *amos* and he did not delineate a place of residence, he does not acquire residence since he may have intended 4 *amos* that are beyond his *techum*. He also does not acquire residence in his current location since he removed that intent from his mind and on Shabbos he may not move from his current location. If the entire tree is within his *techum* but he did not specify the place of his residence, for example, he declared that his residence is under the tree, he is assigned 4000 *amos* from his current location in the direction of the tree minus the area beneath the tree. For example, if the tree is 20 *amos* he is assigned 2000 *amos* minus 20 *amos*. According to Rambam one who acquires his residence at a distant location but does not delineate the exact location does not acquire his residence there and instead acquires residence in the location where he is when it becomes dark. Similarly, if he intends to establish residence at a distant location that is more than 2000 *amos* away, he acquires residence in his current location. One who declares his residence under a particular tree and that tree is wider than 8 *amos*, he does not acquire residence since he did not delineate a place, therefore, he must specify that his residence will be at the trunk or in the four *amos* on the north or south. If the area beneath the tree is less than 8 *amos* and he intends to acquire residence beneath it, he acquires residence since some of the area is delineated. This also represents Rif's position.

- If one designated a mound ten *tefachim* high or a ditch ten *tefachim* deep as his residence, it is considered 4 *amos* provided that it is not larger than 2 *beis seah*. (M.B. 56)
- Verbalizing the place of his residence is sufficient for one who is travelling. (M.B. 58)
- He may also remain in his current place and walk there the next day. As long as he could reach that place by running his declaration is effective even though he does not actually go there. (M.B. 59)
- Even if the distance from his current location to the trunk was 2004 *amos* it would be effective since a person is assigned 4 *amos* besides his 2000 *amah techum*. (M.B. 61)
- Although the trunk is within his *techum* some of the branches extend beyond the *techum* and he did not specify that his residence would be at the trunk. Consequently, he does not acquire residence since he may have intended to establish residence under the branches that are outside of the *techum*. (M.B. 62)
- Shulchan Aruch means the distance from where he is currently to the tree and from the tree to his house. (M.B. 64)
- The entire area of 20 *amos* beneath the tree may be his residence and thus we are stringent, consequently when measuring 2000 *amos* beyond the tree we begin measuring from the part of the tree closer to where he was at the outset of Shabbos. (M.B. 65)
- According to Rambam he does not acquire residence at the other location, rather his residence is from his current location. (M.B. 66)
- According to the first opinion he did not acquire residence whereas according to Rambam he acquires residence in his current location. (M.B. 67)
- The first opinion does not agree to this. (M.B. 68)
- The middle *amah* is definitive since it is encompassed regardless of which side is his residence. (M.B. 70)
- Elya Rabba follows the first opinion but Biur Halacha is not convinced by his argument and one should certainly make an effort to delineate a specific location in accordance with Rambam. (M.B. 71)

Halacha Highlight

Establishing residence in a distant city

Shulchan Aruch Siman 409 Seif 11

אף על פי שאינו יכול להגיע שם מבעוד יום במהלך בינוני

Even though he will not reach that place before Shabbos at an average pace

Shulchan Aruch discusses someone who was travelling and recognizes a tree or fence in the distance and out of concern that it may become dark before he reaches that location, he declares his residence to be at that distant location. The *halacha* is that as long as that distant location is within 2000 *amos* of where he is presently, it is effective and from there he is assigned 2000 *amos* in each direction. The novelty of this ruling, explains Mishnah Berurah (ס"ק נ"ח) is that Chazal were lenient for travelers who are weary from their travels (מ"ב ס"ק ע"ג) to establish residence with a mere declaration. Mishnah Berurah (ס"ק נ"ו) also writes that one may establish residence in this manner by pointing to any clearly identifiable spot such as a stone or something similar. Shulchan Aruch adds that this is an effective means of establishing residence even if, walking at an average pace, he would not reach that location as long as he could reach that place if he were to run.

Chazon Ish (או"ח סי' פ' ד"ה דף נ"א) writes that one who declares his residence in another city has effectively relocated his residence, even if he could not reach the city before dark. He explains that it is only when attempting to establish residence by a tree or fence is it necessary for one to be capable of reaching there before it is dark. When relocating one's residence to another city it is not necessary provided that he could reach the *techum* of that city. He cites as proof to his conclusion the Gemara's incident in which a group of Tannaim was travelling by boat on *erev* Shabbos and when the boat reached the port on Shabbos Rabban Gamliel permitted them to disembark. The reason this was allowed was that he looked through a special instrument and was able to see that they were already within the *techum* as Shabbos began. This clearly demonstrates that one may establish residence in a city even though one will not be able to reach the city before it is dark.