The Chicago Center
Digest
Mishna Berura
THE DAILY RESOURCE FOR MISHNA BERURA YOMI
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סימן תקל"ח סעיף א'-ג'

Overview

Siman 538 Seif 1:

Someone who overturned his olives or had wine in a cistern and circumstances beyond his control occurred, or he forgot or was lazy and thought that he would be able to take care of it after Yom Tov and consequently, did not take care of it before Yom Tov may prevent his potential loss. This allows him to pour, complete, calk the casks, whether small or large, plug the casks in the normal manner without any change. It is also permitted to prepare the barrel by tying hoops, however, one may not plan to perform these activities during *chol hamoed*, rather they should be performed before Yom Tov if one realizes that they will have to be done. **It is also permitted to extract flax from a soaking pool and anything similar that involves a loss, provided that one does not plan to do the *melacha* during *chol hamoed*.**

- If he does not take care of them once they were overturned they will ruin. (M.B. 1)
- If he does not transfer the wine into a barrel it will turn into vinegar. (M.B. 2)
- It should say עד לאחר הרגל. When he realizes now that if he waits it will become ruined he is permitted to complete the manufacturing process for the oil and wine. (M.B. 4)
- They may be squeezed many times until the process is completed. (M.B. 5)
- He mentions small barrels to emphasize that even though the loss will not be so great and he mentions large barrels which require greater exertion. (M.B. 6)
- The restriction against planning to take care of it during the *moed* applies to the entire *seif*. (M.B. 9)

Siman 538 Seif 2:

It is permitted to take in fruit out of concern for thieves if the place is not protected but it should be done is private, for example, they should be brought in at night. If bringing them in at night will generate greater publicity, for example, it will require torches and voices, they should be brought in during the day. If it could only be done in public it is permitted in order to prevent a loss.

- It is prohibited to wait until the *moed* even though bringing it in does not involve great exertion. (M.B. 11)

Siman 538 Seif 3:

It is prohibited to transport one's property from one city to another unless one would suffer a loss.

- This is emphasized for the end of the *seif* that if one would suffer a loss it is permitted to transport it even from another city. (M.B. 13)

Halacha Highlight

Saving a *melacha* to do during *chol hamoed*

Shulchan Aruch Siman 538 Seif 1
ובלבד שלא יכון מלאכתו במועד
Provided he does not intend to perform the *melacha* during the *moed*

Shulchan Aruch (סע' א') presents scenarios in which one is permitted to perform *melacha* since refraining to do so would constitute a *davar ha'avud* - a financial loss. If one turned over olives that were in a vat and then was unable to press them due to circumstances beyond his control, or if he forgot or thought that he could wait until after the *moed* and during *chol hamoed* realizes that if he does not press the olives to extract the oil, they will ruin, it is permitted for him to press the olives in the normal manner to prevent that loss. Chasam Sofer (חו"מ סי' מ"ב) explains that this allowance is limited to where he thought he could wait to press the olives until after Yom Tov and then realized that he miscalculated. However, if he knew that he could not wait until after the *moed* but erroneously thought that he would have time before Yom Tov and then forgot to press the olives, he is categorized as one who planned to do *melacha* during *chol hamoed* and may not press the olives even though it will cause him a loss. Others disagree and contend that this case is included in Shulchan Aruch's reference to one who forgot or was lazy which is considered a *davar ha'avud* (פסקי תשובות אות א' והע' 1).

Maharsham (דעת תורה סי' זה) rules that one who mistakenly thought that he could save *melacha* for *chol hamoed* and is then informed on *chol hamoed* that it is not permitted to do so, may not perform the planned *melacha* even though at this point to refrain from doing the *melacha* will constitute a *davar ha'avud*. Although one who erroneously thinks something is permitted is categorized as a שוגג, he is not categorized as an אונס which is the category one must be in to permit a *davar ha'avud*. Others contend that erroneously thinking something is permitted is no worse than one who forgot and thus should be permitted. Each case must be decided by a *rov* (פסקי תשובות שם).