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Digest
Mishna Berura
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סימן תקל"ח סעיף ד'-ו'

Halacha Highlight

Using vacation days for *chol hamoed*

Shulchan Aruch Siman 538 Seif 6
המכון מלאכתו והניחה למועד
If one planned the work to be left for *chol hamoed*

Shulchan Aruch (סע' ו') writes that one who plans to do *melacha* during *chol hamoed* and then does that *melacha* is penalized and *bais din* destroys his work and declares it ownerless for others to come and take it. Mishnah Berurah (ס"ק ט"ו) explains that not only if he has not yet done the *melacha* will *bais din* step in to prevent him from doing the *melacha,* but even if he already performed the *melacha bais din* will come along and destroy the result of that *melacha*. Rema adds that if his *melacha* is done on behalf of others, e.g., a tailor or a scribe, so that we cannot destroy the work that was done since it belongs to someone else, we either excommunicate the craftsman or administer lashes until he agrees to refrain from performing *melacha* in the future. Mishnah Berurah (ס"ק י"ח) references Elya Rabba who maintains that in such a case we destroy what he received as payment for the *melacha* he did for others.

Poskim discuss whether one is obligated to use his vacation days during *chol hamoed* or perhapsit is permitted to use his vacation days during the summer even though it means he will have to work during *chol hamoed*. Rav Moshe Feinstein (ספר הזכרון מבקשי תורה חול המועד עמ' תס"ה-ג) writes that if one has a good reason why he wants to use his vacation days during the summer he may do so and it is not considered as though he is planning to perform *melacha* during *chol hamoed*. However, if there is no compelling reason to use his vacation days during the summer he should use them for *chol hamoed*. Rav Yaakov Kamenetzky (זכרון שלמב פ"ט הע' 63) further explains that the restriction against planning to perform *melacha* during *chol hamoed* applies when one delays the *melacha* for the *moed* but if one has a compelling reason to use the days during the summer which thereby obligates him to work during *chol hamoed*. He further explains (אמת ליעקב על שו"ע כאן) that this is true when he wants to take off days during the summer and the consequence is that he will have to work during *chol hamoed*. However, if he must make the decision during *chol hamoed* whether to work to save his vacation days for another time or to use them on *chol hamoed*, he must use them during *chol hamoed* and may not save them for later.

Overview

Siman 538 Seif 4:

If one has figs spread out on a field to dry and is concerned that it will rain, he may cover them with straw, even with a thick covering.

- It is evident from the Yerushalmi that he may even uproot attached straw for this purpose. (M.B. 14)

Siman 538 Seif 5:

One who has merchandise which if not overturned will ruin may overturn it on *chol hamoed*.

Siman 538 Seif 6:

One who plans to do *melacha* during the *moed* and then does it, *bais din* destroys it and leaves it as ownerless for anyone to take. If he performs work for others so that they cannot penalize those items, for example, a tailor or scribe who perform work for others, they would excommunicate him and administer lashes. **If he dies we do not penalize his son and he may perform the work since it would cause him a loss.**

- Even if the work was not done by the father, his son may do the work to prevent a loss. (M.B. 15)
- *Bais din* would certainly destroy it if the work did not even involve a loss. (M.B. 16)
- Elya Rabba argues that we destroy his salary. (M.B. 18)
- Meaning alternatively they would administer lashes until he commits to refrain from doing *melacha*. (M.B. 19)
- Once it was declared ownerless the son may not claim rights as an heir; rather he is like anyone else. Shulchan Aruch refers to where the father died before it was declared ownerless. (M.B. 20)
- If the father did work that did not even involve a loss there are authorities who maintain that we do penalize the son to prevent him from benefitting from *melacha* done on the *moed* but Bais Yosef and others question this position. (M.B. 21)