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

Overview

Siman 539 Seif 1:

Any trade is prohibited even a minimal amount and this includes buying and selling. Even if one loaned money on condition that he will receive in return wine or other goods as payment of the loan so that one could profit from it, he may not go and claim payment of the loan unless the person will not be around after the *moed* so that it constitutes a loss if he does not go on *chol hamoed* and claim it from them. If an opportunity to make a significant profit arises during the *moed* one may sell merchandise during the *moed* in private and he should then spend more on *simchas* Yom Tov than he anticipated.

- Biur Halacha writes that it is prohibited even in the same city and the emphasis is that if the person will not be around after the *moed* it is permitted to even travel to another city. (M.B. 2)
- This is allowed only if he did not plan for to receive the merchandise during the *moed*. (M.B. 4)
- Since there are authorities who permit selling merchandise in private, we rely on their position when one has an opportunity to make a significant profit. However, some of the earnings must be spent on *simchas* Yom Tov. (M.B. 5)
- The same is true concerning purchasing. (M.B. 6)

Siman 539 Seif 2:

One who loaned a friend money may demand payment of the loan during *chol hamoed* and obviously one may demand payment from a gentile.

- This is allowed even if one must go to another city to demand payment, even if the person will be available after the *moed* since collecting a loan is not classified as trade. (M.B. 7)

Siman 539 Seif 3:

If one sold merchandise before the *moed*, there are authorities who prohibit demanding payment during the *moed* unless the customer does not frequent the locale of the merchant but happens to be there during *chol hamoed* so that it is categorized as a *davar ha'avud*. It seems to me that if they set up a payment plan before the *moed* it is similar to a loan and one may demand payment during the *moed*, even if the customer does frequent the locale of the merchant. It is also permitted for one to lodge a complaint in court to collect loans for which one is permitted to demand payment. It is also permitted to set up a payment plan for money owed to guarantee payment since it is included in the category of *davar ha'avud* which is permitted.

- Even though Bach subscribes to the first opinion, nowadays that people commonly are not paid for merchandise, we demand payment even for merchandise since it is all considered a *davar ha'avud*. (M.B. 11)
- One demanded payment from the Jew before the *moed* but he did not respond. It is permitted to lodge a complaint in secular court but one may not write anything unless it is a *davar ha'avud*. If one needs the money for Yom Tov expenses it is permitted to have a gentile write. (M.B. 12)
- Even if one is stringent regarding demand of payment from a Jew since one could demand payment after the *moed*, it is certainly permitted to demand payment from a gentile since it is certainly a *davar ha'avud*. (M.B. 13)

Halacha Highlight

Trade on *chol hamoed*

Shulchan Aruch Siman 539 Seif 1

כל סחורה אסורה

Any trade is prohibited

Shulchan Aruch (סעי' א') rules that trade is prohibited on *chol hamoed*. The prohibition applies to both the merchant as well as to the customer and applies even for small quantities. Mishnah Berurah (סק"א) explains that the prohibition is rooted in the exertion that is normally involved in trade and activities that involve exertion are prohibited on *chol hamoed*. Rav Shmuel HaLevi Wosner (שבט הלוי ח"ו סי' ס"ז) addressed the question of a merchant who decided not to open his store during *chol hamoed* but since he did not want to lose the days altogether, wanted to take inventory and rearrange the store. Rav Wosner ruled that it is prohibited for a merchant to do so since these activities involve exertion and the underpinning of these *halachos* is the prohibition against exertion. He cited as proof the *halacha* (סי' תקל"ח סעי' ה') that if one has merchandise that must be turned over to prevent it from rotting, he may do so to prevent a loss. The implication is that were it not for the mitigating factor that he would suffer a loss it would be prohibited to simply turn over his merchandise. The rationale for such a prohibition is the exertion involved in the activity.

Poskim also discuss whether it is permitted to assist either a gentile or a non-religious person trade merchandise. Teshuvas Chikekei Lev (להגר"ח פלגי ח"א או"ח סי' ט"ו) ruled that it is certainly prohibited to assist a non-religious person due to the prohibition against assisting someone to perform a prohibited activity. Even if he merely asks for an opinion as to whether the merchandise is good quality or not it is prohibited to respond, even though one will not be remunerated for offering expert advice since that also constitutes assisting someone to do something that is prohibited. He then writes that it is also prohibited to assist a gentile since it is likely that one will have to handle the merchandise and doing so constitutes active engagement in trade on *chol hamoed*.