

## 7.5.4

38a (כגון דאדייה אדויי לרשות הרבים) → 39a (משנה ד) [השואל כלי מחבירו]

## I. תחום: borrowed items re: משנה ד

- a. If: he borrows a tool before י"ט, follows תחום of borrower
  - i. Challenge: this is obvious
  - ii. Answer: even in case where he handed it over on י"ט, per ruling of ר' יוחנן
    1. if someone borrows a כלי on עי"ט, follows borrower – even if given on י"ט
      - a. But: if borrowed on י"ט, follows תחום of lender
        - i. Justification: even if he is accustomed to borrow from him
- b. Reason: lender assumes that habitual שואל has found another משאיל
 

But if: he borrows it on י"ט, follows תחום of lender
- c. Similarly: if a woman borrows water, salt or spices for her dough – it has both תחומין (לחומר)
  - i. Dissent: ר' יהודה disagrees re: water, as it is insignificant (isn't reckoned towards תחום)
    1. Observation: ר' יהודה only dissents re water – but salt isn't בטל
    2. Challenge: ר' יהודה – ברייתא – dissent re: salt as well as water – whether in dough or pot
      - a. Answer: doesn't dissent in case of מלח סדומית
      - b. Challenge: ר' יהודה (ברייתא) limits מים's being negated to dough, not to pot
        - i. Answer: if תבשיל is thick and dry (water unfelt) – בטל; else, he agrees

## II. אבא ר' s abortive attempt to contribute a comment to our ruling

- a. אבא ד' defended the significance of the מלח ותבלין (against the question of טבריה חכמי)
  - i. Defense: similar to someone's קב of wheat mixing with 10 others (owned by others) –
    1. Shall we consider: it acceptable for him to "eat and rejoice" (ignoring their ownership)?
  - ii. Block (חכמי טבריה): laughed at him, then at his attempted defense
    1. Reason: he didn't use barley into wheat – as מבש"מ is ברוב
      - a. and: wheat into wheat is בטל according to רבנן (although not יהודה לר')
- b. אבא ד' defended אבא ר' – based on ruling of רב:
  - i. רב: if someone picks out pebbles from another's granary – he owes him for wheat
    1. In other words: since he actually caused him loss, the other isn't מוחל
    2. Similarly: the spices and salt are significant and if owned by another – would be owed
  - ii. Challenge (אב"י): we do not equate ממון שיש לו תובעין (e.g. case of granary) with ממון שאין לו תובעין
  - iii. Response (ר"ש): שחוטא is בטל to נבילה, as a נבילה could become שחוטא – but not the inverse
    1. However: if ממון שיש לו תובעין is a factor, the נבילה which has an owner shouldn't be בטל
    2. And: that isn't true, as ריב"נ ruled – חפצי הפקר – as if they have owner שבייתה
  - iv. Defense (אב"י): can't compare ממון (where there is no ביטול) to איסור (where ביטול is in effect)
  - v. Rather (אב"י): reason for איסור here is that she may come to make dough בשותפות
  - vi. Answer2 (רבא): תבלין are used to generate flavor → not בטל
  - vii. Answer3 (ר' אשי): the תבלין ומלח are דבר שיש לו מתירין – never בטל (even in 1000)

## III. משנה הו: status of coals and flames; coals follow the owners, but flames are unlimited by תחום

- a. Application to מעילה: coals are subject to מעילה; may not get הנאה from שלהבת, but not מעילה attaches
- b. Application to הוצאת שבת: liable for carrying coals out to רה"ר, not for שלהבת
  - i. Challenge: ברייתא rules that there is liability for הוצאת שלהבת – of any size
  - ii. Answer1 (רב ששת): if he took it out on a stick
    1. Challenge: he should be liable for the stick
    2. Answer: if the stick were פחות מכשיעור (per שבת ט:)
  - iii. Answer2 (אב"י): if he oiled down a כלי and then lit it up
    1. Challenge: he should be liable for כלי –
    2. Answer: if the כלי is פחות מכשיעור (per שבת ח:)
  - iv. Rather: the ruling of liability is a case where he threw the flame into רה"ר (independent of a כלי)
- c. Application to ע"ז (תוספתא): only coals of ע"ז are forbidden, not flame
- d. Application to נדרים (שם): מודר הנאה from his fellow, may not benefit from coals, may benefit from flame
  - i. observation: distinction between flame re: מעילה & flame of ע"ז (מותר לכתחילה להנות) & (אסור לכתחילה) מעילה
  - ii. Reason: people naturally avoid ע"ז (מאוס) → no need for a גזירה – but people aren't בהקדש