

22.1.05

6a (סמך לו כותל אחר) → 6b (אינו זקוק לו)

- I Analysis, expansion and application on סיפא – if he built an adjacent wall, he must now pay his share for all
- a Liability if he builds a partial wall (רש"י – either covering part of the width *or* part of the height)
    - i ר"ה: liable for all (but he accedes in the case where he built onto the corner of the wall)
    - ii ר"נ: only liable for area corresponding to what he built (ר"נ מודה) that beams, set for adding on, obligate full payment)
  - b ר' הונא: if A put in windows, doesn't prove that B already paid in; A may anticipate B paying; wants to maintain structure
  - c ר"נ: if the neighbor has been allowed to lay his light beams on the wall, that doesn't give him rights to lay heavy beams
    - i *However*: if he has been allowed to lay his heavy beams on the wall, he has a חזקה for the light beams
    - ii *Dissent* (ר' יוסף): חזקה works in both directions
    - iii *Variation*: ר"נ agrees and חזקה works in both directions
  - d ר"נ: if the neighbor has allowed him to let his rain spout go in to his חצר, he has חזקה for rain drops – not the inverse
    - i *Dissent*: ר' יוסף allows for חזקה in both directions
    - ii *Variation*: ר"נ agrees and חזקה works in both directions
      - 1 *But*: that doesn't allow him to make a slanted roof which will direct water into other's חצר
      - 2 *Dissent*: ר"י allows even that (and ruled that way in practice)
  - e ר"א בר אבבה: if someone rents an apartment in a large building, he may use parts of the wall (and beams) up to ד"א from his apartment
    - i *But*: he may not use the garden
    - ii ר"נ (*his own opinion*): he may use the garden, but not the back yard
    - iii דבא: he may even use the back yard
  - f רבינא: a beam used to support a roof, left leaning on another's wall, isn't a חזקה until 30 days (owner need not protest)
    - i *However*: if it is a סוכה during the חג, it is a חזקה after 7 days
      - 1 *But if*: he cemented it on, the חזקה is immediate
  - g אב"י: solution to privacy problem for rooftops facing each other with רה"ר in the middle
    - i Each rooftop makes a parapet covering a bit more than ½ the width, with a slight overlap
      - 1 *Challenge*: this is true even if it is ר"י
      - 2 *Answer*: this is needed, since one owner could tell the other that, in any case, he needs to erect a barrier from the public
        - (a) *Response*: public only sees during the day, and only when he is standing and only if they look intently; whereas neighbor can see at any time and with ease, even when other fellow is seated
      - 3 *Justification*: if one built his half, other could pay him to build all of it; קמ"ל that he must share the burden of weakening his building with the parapet.
  - h (בשם שמואל) ר"נ: if someone's roof is adjacent to another's חצר, he must build a parapet ד"א high
    - i *But*: not to separate rooftops
    - ii *Dissent* (ר"נ *on his own*): only need י' טפחים high
      - 1 *Challenge*: what is the purpose of י"ט?
        - (a) *If*: for היזק ראיה, we require ד"א
        - (b) *If*: marking off the boundary (to prevent a גנב from "slipping in") than even a reed-marker is enough
        - (c) *If*: to keep animals out, all that is needed is to keep them from coming in at one shot
      - 2 *Answer*: to mark the boundary; if a simple reed-fence is there, he may move it, claiming it stretched
      - 3 *Challenge*: we have a ruling that if a חצר was higher than a rooftop, there is no requirement at all
        - (a) *Correction*: no requirement of ד"א, but there is a requirement of י"ט
  - i ר' הונא: if two חצרות are adjacent, one higher than the other, the lower one builds up and the higher one builds from his floor up
    - i *Dissent*: ר"ח – the upper one must assist the lower in his fence (support from ברייתא)
      - 1 *Addendum* (*in ברייתא*): if his חצר was higher than a rooftop, no requirement (explained above)