

22.3.20

53b (וכן היה ר' אבין ור' אילעא וכל רבותינו שוין בדבר) → 55a (א"ר נחמן אמר רבה בר אבוח: הבונה פלטרין גדולים בנכסי הגר)

- I Collection of rulings re: acquisition of נכסי הגר
- a רבה בר אבוח: if A builds a mansion and B comes along and puts up the door – B acquires it  
i Reason: A was just “rearranging bricks”
- b ר"א: if A finds a built house there and plasters any amount – קנה  
i amount (ר' יוסף): 1 (square) אמה – must be facing the doorway (ר' חסדא)
- c קנה – נכסי הגר: if A puts a bed in הגר  
i support: קנין ע"כ ברייתא regarding ר"ש – any benefit given to master is called חזקה → using ground for bed = חזקה
- d נכסי הגר - רב יהודה: if someone spreads turnip seeds in the cracks of הגר  
i reason: when he plants, there is no benefit; the benefit later accrues of its own accord
- e קנינים שמואל: equivocal  
i if: he trims a tree for the sake of the tree – קנה; to feed animals – לא קנה  
1 litmus test: if he cuts evenly all around – for tree; if on one side – to feed animals  
ii if: he sweeps up wood for the sake of the land – קנה; for the wood – לא קנה  
1 litmus test: if he takes all the wood – for land; if he only takes the large pieces – for wood  
iii if: he evens out the ground for the sake of the land (to plant) – קנה; in order to build a granary – לא קנה  
1 litmus test: if he fills in the holes with the mounds – for land; if he builds up the mounds - for granary  
iv if: he opens up a waterway into the property – for sake of land – קנה; to get fish – לא קנה  
1 litmus test: if he opens up two openings (in and out) – for fish; one opening – for land  
v story: woman used הפקר tree for 13 years without working it; someone came along and tilled underneath  
1 ruling (מר עובקא or לוי): belongs to him – she protested & was told that she wasn't מחזיק in the usual way
- f רב: making a mark (painting) on the wall of הגר is a קנין  
i narrative: רב himself didn't acquire the garden of רב בי until he made a mark on the wall
- II רב/שמואל קנין חזקה on a field – dispute  
a if: it's a field that is clearly marked off and he tills one time  
i רב (quoted by הונא): acquires all of it  
ii שמואל: only acquires the spot he tilled
- b if: it's a field that isn't clearly marked (according to רב) – acquires as far as the team of oxen typically plows
- III related ruling (רב יהודה as quoted by שמואל): property of a non-Jew (sold to ישראל before ישראל is מחזיק) is הפקר (“like desert”)  
a reason: the non-Jew makes his קנין with כסף; as soon as he is paid, he is “off the land”; ישראל doesn't take possession until he gets the שטר  
i challenge (ר' יוסף → אבין): שמואל ruled דינא דמלכותא דינא and local law stipulates that land is only bought with שטר  
ii answer: רב יהודה's ruling is known from a story in דרעותא  
1 Story: ישראל bought land from non-Jew, another ישראל came and worked it and ר"י granted him the land  
2 Block (אבין): in that place, they don't pay property taxes and king ruled that whoever pays gets land
- b Story: הונא ר' bought land from non-Jew, another ישראל came and tilled it and ר"נ granted it to interloper  
i Challenge (ר' הונא): if you are following שמואל's ruling that in such a case, the non-Jew's property is “הפקר”  
1 Then: you should also follow שמואל's other ruling (II, above) that he only acquires that spot  
2 Answer (ר' ינאי): we (or “you”) follow your own ruling (ר"ה quoting רב that in such a case, acquires entire field)
- c Ruling (רב אבין, ר' אילעא, ר' אבין, ר' אילעא and “all our teachers”): as per שמואל – it belongs to מחזיק