

22.3.24

58b (משנה ר') → 59b (זימנין דבעינתת)

Note: our first משנה refers to a gutter system of a rain gutter (מזחילה) and a short spout (מרזב)

7. ואם יתקפו האחד השנים יעמדו נגדו והחוט המשלש לא במהרה ינתק: קהלת ד, יב

- I 11 משנה 11: items peripheral to building that may/may not be liable for חזקה
- a חזקה ממזחילה, but חזקה for its location; מרזב חזקה (see note): no חזקה ומזחילה
- i חזקה can be moved (by neighbor) in one direction, but not in both (to a different side) שמואל ר': חנינא
- ii he can force it to be moved, but not totally uprooted ר': חנינא
- iii he may build underneath it – even if it is built of stones and may weaken the other's wall – but may not totally uproot it ר': ירמיה בר אבא
- b Related ruling (שמואל): if a rain spout shoots water into a neighbor's yard, each has a חזקה
- i Roof owner: has a חזקה to allow his water to be disposed into neighbor's yard
- ii Neighbor: has a חזקה to receive rain water from the other's roof
- c Ruling: ר' אושעיא – he may prevent roof owner from diverting water;
- i ר' אושעיא (ר' חמא's father): he may not prevent it חמא
- ii ר' חמא (ר' חמא's father): he may prevent it ביסא
- 1 דמי בר חמא applied v. 1 to this father, son, grandson who studied together
- II 11 משנה 11 (con't): ladders and windows
- a חזקה – has חזקה (taller) – סולם צורי; חזקה – no חזקה (short ladder – less than 4 rungs) – סולם מצרי
- b חזקה; חזקה חלון צורית; חזקה חלון מצרית
- i Meaning of המצרית חלון:
- 1 חזקה ת"ק: if it's too small to put a head into
- 2 חזקה ר' יהודה: even if it's that small, if it has a frame, liable for חזקה
- ii high windows (above ד' אמות)
- 1 חזקה ר' זירא: may not protest → no חזקה
- 2 חזקה ר' אילעא: may protest → חזקה
- (a) suggestion: they disagree about חזקה על מדת סדום; no protest → no חזקה → ר' זירא – כופין – ר' זירא
- (b) rejection: all agree that חזקה על מדת סדום;
- (i) however: ר' אילעא holds that it isn't חזקה סדום; he complains that the other will stand on a bench and look in
- 3 Ruling: follows ר' אילעא
- iii Note (שמואל): if the window was made to bring light in, even if it is small, there is a חזקה
- III 21 משנה 21: a beam has a חזקה if it is טפח long (and neighbor can protest) – but not shorter
- a ד"ט ר' מני: if one is מחזיק טפח 1, he has a חזקה for טפח 1 מחזיק
- i meaning: if he is מחזיק טפח 1 width of a 4-long beam, he now has a חזקה for 4-wide
- b dispute about application of סיפא (if it is shorter – no protest → no חזקה)
- i ר' הונא: this is limited to a protest of the roof-owner against the חצר-owner
- 1 but: the חצר-owner may protest even a smaller beam if it protrudes from roof
- ii רב יהודה: even חצר-owner cannot protest
- 1 suggestion: they disagree about חזקה רב יהודה maintains that it is prohibited היזק ראייה
- 2 rejection: all hold that it is נזק
- (a) רב יהודה: roof owner promises that if he hangs something from the beam, he'll look away
- (i) therefore: no problem of חזקה ראייה
- (b) רב הונא: yard owner counters that sometimes roof-owner may get scared and look down