

22.4.2

62a (מצר לו מצר אחד ארוך ומצר אחד קצר) → 63a (אין פחות מששה עשר)

- I Interpreting the terms of the **מכר** of **קרקע** – boundaries
- a **דב**: if he wrote a long boundary on one side and a shorter one on the other side – only gets the smaller area
 - i *challenge* (**ר' אסי** and **ר' זכ**): why doesn't he get a diagonal (from edge of longer boundary to edge of smaller)? (silent)
 - 1 *note*: **רב** agrees in case where there are 4 adjacent owners; A & B on N, C & D on S, and he wrote long and short, he intended a diagonal (else, could have written A and C)
 - b *if*: A abuts his property on N & S, and B abuts on E & W, must write "both sides of A", "both sides of B"
 - i *else*: he'll only get a diagonal cut
 - c *questions*: if he only marks the corners, describes a Gamma (Γ) or identifies every other adjacent owner, does he get entire area? **תיקור**
 - d *if*: He marks 3 boundaries, not the fourth
 - i **דב** gets everything but the land of the fourth boundary
 - ii **שמואל** gets all
 - iii **ר' אסי** gets only a strip of land adjacent to each of the three marked boundaries
 - 1 *reason*: he accepts **רב**'s principle, that the owner has withheld something; and rules minimally
 - iv *ruling* (**רבא**): follows **רב**
 - 1 *Version 1*: only if 4th boundary sits apart from land
 - (a) *And*: has a row of trees and 9 **קבין** of planting area
 - (i) *Implication*: if included within land, even if it has a row of trees etc. all is included in sale
 - 2 *Version 2*: if 4th boundary is within land, all included
 - (a) *But*: only if it doesn't have a row of trees and 9 **קבין** of arable land
 - (i) *Implication*: if not included within boundaries, even if it doesn't have trees etc. – excluded
 - 3 *General implication*: nothing is withheld from field
 - 4 *And*: if inside boundary and has no row of trees etc. – included
 - 5 *And*: if outside of boundary and has row of trees etc. – excluded
 - (a) *Split the difference*: if inside with row, or outside without – depends on versions of **רבא**
 - (i) *Ruling*: **שודא דדייני** (judges should determine intent of seller)
- II **רבה**: interpreting meaning of seller's designation (if seller is a 50% owner of land)
- a *if he writes*: "the half that I own in the land" – 50% of entire plot
 - i *but if he writes*: "half of what I own" – 25% of entire plot (half of his holding)
 - 1 *challenge* (**אביי**): why the distinction?
 - (a) **דבה** was silent – **אביי** assumed that he had retreated from his position
 - (b) *but*: **אביי** later saw **שטרות** from **ב"ד**'s **רבה** that indicated same (50 or 25%, depending on wording)
 - b *if he writes*: "the land from which half has been cut off", buyer gets half (away from boundary)
 - i *but if he writes*: "the land from which a piece has been cut off", buyer gets 9 **קבין** (furthest from boundary)
 - 1 *challenge* (**אביי**): why the distinction?
 - (a) *Onlookers*: assumed that **אביי** meant that both should always be half
 - (b) *Correction*: **אביי** meant that either wording would grant half if he wrote "with these boundaries";
 - (i) *But*: if he doesn't write the boundaries, either wording grants only 9 **קבין** (minimal "field")
 - c *Related analysis*: if a **שכ"מ** says "A shall share my property", obviously he gets 50%
 - i *But*: if he says "A shall take a portion of my property" – how much should he be given?
 - ii *Answer* (from **ברייתא**): **סומכוס** - if he gives a portion of the cistern – he gets ¼ of the **בור**
 - 1 *But*: if he stated "give him a portion for his..."
 - (a) *barrel*: he gets 1/8
 - (b) *pot*: he gets 1/12
 - (c) *drinking cup*: he gets 1/16
 - (i) *application*: most **ראשונים** understand that these **שיעורים** are unique to the cistern/water case and we use ¼ as the basic model of "portion"
 - (ii) *however*: **רמב"ם** (**הלכות זביח ומתנה יא:ז**) rules that we use smallest **שיעור** here (1/16) as model