

22.5.10

84b (משנה ז') → 85b (אלא דתרוייהו)

- I מטלטלין method of purchase in buying משנה ז'
- a *Fruit*: if he does משיכה without measuring – קנה (and cannot retract)
- i *But if*: he measures without משיכה – either side can retract deal
- ii *Therefore*: if he is sharp (and wants to prevent buyer from reneging) he rents the spot of the fruit
- b *Flax*: משיכה is insufficient, must lift and take from place to place
- i *But if*: it is still in the ground, uprooting any amount is a full קנין
- II Analysis:
- a קנה – ר' אסי בשם ר' יוחנן: if the seller measured it out and put it in a back alley – קנה
- i *Challenge* (ר' זירא): perhaps ר' יוחנן only meant if it was put into the buyer's container
- ii *Retort* (ר' אסי): this case is too obvious and needs no mention
- iii *Question*: did ר' זירא accept the extension (that a purchase is valid even if placed in a סימטא)?
- 1 *Suggested proof*: רבי ruled that in a jointly-owned yard (::סימטא), they can purchase from each other
- (a) *Implication*: refers to laying on ground
- (b) *Correction*: refers to putting it into buyer's container
- (i) *Proof*: ר' יוחנן ruled that if he measured and placed in an alley – קנין no
- (ii) *Explanation*: this is a contradiction, which can be resolved by קרקע (קנין no) vs. קופה
- 2 *Attempted proof for ר' זירא's position*: our משנה – if he weighed without משיכה – קנין no
- (a) *Assumption*: even in a סימטא
- (b) *Rejection*: our משנה is taught in re: רה"ר
- (i) *Challenge*: next clause – משיכה is valid – but there is no משיכה in רה"ר (as per רבא)
- (ii) *Answer*: משיכה here means "to רה"ר"
1. *Challenge*: end of 1st clause allows for renting the space → can't be רה"ר
2. *Answer*: means "if it was owner's property, he can rent the space..."
- III Dispute רה"ר ור"ל יוחנן re: vessels acting as vehicles for acquisition
- a רה"ר: anywhere but בבבל
- b רה"ר: even in טבריה
- i ר"פ – no dispute; ר' יוחנן meant סימטא, calling it רה"ר because it isn't private
- ii *Support*: ר' יוחנן ruled that a man's vessels acquire for him "anywhere he has רשות to place them"
- c Attempted proof (to support ר' יוחנן's earlier read):
- i ברייתא: 4 ways in which מטלטלין are acquired:
- 1 *If*: the seller hasn't yet filled the vessel – he can retract (belongs to seller)
- 2 *Once*: he's filled the vessel – buyer owns it
- (a) *All of this*: is only if the measuring vessel belongs to neither of them
- (b) *But*: if it belongs to either one of them, each drop becomes property of לוקח
- (i) *All of this*: is only in רה"ר or a yard not owned by either of them
1. *Note*: רה"ר is a valid location for the לוקח כלי generating acquisition
2. *Block*: רה"ר here means סימטא
- a. *Challenge*: it is set up as parallel to חצר שאינה של שניהם
- b. *Answer*: in the sense that neither one of them has full ownership
- (ii) *But*: in the property of the seller, no קנין until buyer lifts it up or takes it out of his area
- (iii) *And*: in the property of the buyer, once the seller agrees to sell, לוקח קנה
- (iv) *And*: if it's in a 3rd party's property (פקדון), only acquired after buyer takes responsibility (or rents שומר space) from שומר