

OVERVIEW of the Daf

1) Riding and leading (cont.)

The Gemara rejects the proof from the Baraisa that a rider does not acquire the animal.

A second version of this unsuccessful proof is presented but from the latter part of the Baraisa rather than the earlier part of the Baraisa.

A Baraisa is cited to prove that a rider does acquire.

This proof is rejected and even after many attempts at emending the Baraisa the Gemara's conclusion is that a proof cannot be derived from this Baraisa.

R' Avahu suggests that it is unnecessary to emend the Baraisa and offers another reason why the Baraisa does not prove that a rider does acquire.

The Gemara, however, rejects the position of R' Avahu.

A Baraisa is cited that demonstrates that a rider acquires at least in the fields. This proof is rejected.

In the course of the exchange R' Kahana explains the Baraisa with the assertion that it is not customary for people to ride in the city.

R' Kahana's assertion is rejected and an alternative explanation of the Baraisa is offered.

Additional details related to acquiring an animal by riding in town are presented.

2) Pulling an animal to acquire the utensils on its back

R' Elazar inquires whether the act of pulling an animal is effective for acquiring utensils on the animal's back.

The wording of the inquiry is challenged and revised.

Rava challenges the assumption that if the buyer was acquiring the animal with the utensils the transaction would certainly be effective.

(Overview...Continued on page 2)

REVIEW and Remember

1. What are the two ways one can acquire a camel or donkey?
.....
2. Why does riding in a city not constitute an act of acquisition?
.....
3. Is a boat considered to be in motion?
.....
4. According to Ulla, what is the point of dispute between R' Eliezer and Chachamim?
.....

Distinctive INSIGHT

Acquiring an animal and the utensils upon it

האומר לחבירו משוך בהמה זו לקנות כלים שעליה מהו

Typically, utensils and animals are both acquired with the transaction known as **משיכה**, where the object or animal is pulled or led along by the buyer. Yet, the applied use of this **קנין** is somewhat different in each case. A utensil is inanimate, and it is dragged or pulled along, whereas an animal is simply led along as it walks by itself. In our Gemara, R' Elazar proposes an inquiry regarding transfer and acquisition of utensils which are situated on an animal. Can **משיכה** done for the animal help to acquire the utensils which are loaded on top of the animal?

The Rishonim offer varied explanations in understanding the circumstances of R' Elazar's question and of the response of Rava which follows. Rashi, Tosafos, Rosh and Ran point out that R' Elazar only inquires whether the transaction works for the utensils in a case where the animal itself is not being transferred. This suggests that if the animal was part of the deal, the utensils would certainly be included with the **משיכה** of the animal. Rava responds to R' Elazar and wonders why this would be so, as this apparently supposes that the animal is a form of **חצר**, within which the utensils are situated. This is problematic, as a moving **חצר** cannot effect a **קנין** for that which is in it.

Ramban understands that pulling the animal in and of itself certainly cannot effect a transaction for the utensils upon it. The animal is moving, and the utensils which are relatively stationary have not been acted upon. R' Elazar's inquiry was whether the transaction intended for the utensils would result in an acquisition of the animal in order for it to serve as a **חצר** to then acquire the utensils. To this, Rava responded that even if the animal was to be a **חצר**, it still could not help in order to transfer the utensils, as the animal is, at best, a moving **חצר**.

Rashba and Ritva understand that pulling the animal can result in acquiring the utensils on its back. The question of R' Elazar was in defining the mechanism by which it works. If the method here is **חצר**, the **קנין** would fail because when the owner lends the animal to the buyer only for the purpose of effecting a **קנין**, the transfer of the animal is limited and inadequate. If the owner is transferring the animal to the buyer outright, then the method of **חצר** would be effective. ■

HALACHAH Highlight

Do people travelling by car count towards the calculation of 600,000 people?

ספינה מינח ניחא ומיא הוא דקא ממטור לה

A boat is at rest and the water is what moves it

Poskim¹ dispute the essential definition of a public domain – רשות הרבים. Some Poskim maintain that an area cannot be classified as a public domain unless there are 600,000 passersby in that area whereas other Poskim hold that it is not necessary for there to be 600,000 passersby and as long as the other characteristics of a public domain are present, e.g. the street is sixteen amos wide and is open at both ends, it is classified as a public domain. Within the position that 600,000 people are necessary to qualify an area as a public domain, there is another dispute regarding who is included in this calculation. Do we count only the people who walk on the street by foot or perhaps we include in that calculation people who travel through the area by boat, wagon, train or car? Magen Avrohom² asserts that even those people who travel through the area by boat are included in the calculation of 600,000 but Rav Yaakov Emden³ disagrees and writes that people who travel through the area by boat are not included in the calculation of 600,000. Other authorities⁴ apply this position to those who travel through a city by train and rule that those passengers do not make the city into a public domain. The reason is that each train car is its own independent private domain since it is surrounded by walls and thus is not included in the census for calculating 600,000.

(Overview...continued from page 1)

This challenge is resolved.

As a follow up to this ruling we are taught that a boat is at rest and the water moves it and a basket upon a woman's head is at rest and she is the one who is walking.

3) **MISHNAH:** The Mishnah discusses cases of a rider who instructs someone walking by to give him a lost object.

4) **Acquiring something on behalf of another**

A Mishnah in Peah is cited that presents a dispute whether someone who gathers peah for a friend succeeded at acquiring that peah on his behalf.

Ulla offers an explanation of the dispute.

R' Nachman challenges this explanation from the Mishnah's discussion of acquiring a lost object. ■

Teshuvos Mishnah Halachos⁵ suggests that proof to Rav Yaakov Emden's position could be garnered from our Gemara. The Gemara teaches that we consider a boat to be at rest and it is the water that moves it along. Accordingly, people who travel by car should be considered at rest, for it is the car that is moving them along and they do not count amongst those who are travelling through (רבים בוקעים בו). Thus, if there is a road or track designated for traffic and people do not travel upon it, it will not be categorized as a public domain. ■

1. ע' שר"ע אר"ח סי' שמ"ה סע' ז'

2. מג"א סי' שס"ג סק"ל

3. שו"ת היעב"ץ ח"א סי' ז'

4. ע' ישועת מלכו סי' כ"ו

5. שו"ת משנה הלכות ח"ח סי' ע"ה ■

STORIES Off the Daf

Misplaced Priorities

וראה את המציאה

Today's daf discusses one who finds an aveidah.

A certain man travelled to the kevarim of certain tsaddikim in Morocco. When he returned he came to Rav Yitzchak Zilberstein, shli"ta and told an interesting ma'aseh and asked an intriguing question. "When we left our hotel for the final time, we were slated to travel to a certain kever and then make

our flight home. We were slated to spend a few hours at the kever and would have plenty of time to make the flight home. When we were about a half-hour away from the hotel, I realized that I was missing a very valuable object that I surely had left in the hotel. I immediately asked my traveling companions to allow the driver to return to the hotel at my expense to see if I could recover my property.

"Everyone agreed except for one man who adamantly refused. He was unwilling since he would lose at least an hour of davening time at the tzaddik's grave. I wonder if he was cor-

rect. Did this man have the right to cause me such a loss to gain an extra hour of davening?"

Rav Zilberstein replied that the man was definitely wrong in his claim. "If most of the passengers had refused to return it would be another matter. But once everyone else was willing, he had no right to protest. And as far as the value of his tefillos are concerned, this man's prayers at the tzaddik will be an accusation against him since he was unwilling to participate in the mitzvah of hashavas aveidah!"¹ ■

1. ברכי נפשי שמות ע' ת"א-ת"ב