

One of the dwellers – אחד מבני מבוי שבקש לסתום כנגד פתחו who wanted to close off the מבוי opposite his doorway

OVERVIEW

A מבוי is shaped like the letter 'U'. The inside of the U is the מבוי. (On top of the U is the רה"ר.) On all three sides of the U there are various doorways that open into the many הצרים that are on the outside of this U (מבוי). People exit from the מבוי (via these doorways) into the מבוי and from the מבוי they exit into the רה"ר (and vice versa). בני מבוי ruled that the בני מבוי can prevent (any) one of the מבוי from building a blockage כנגד פתחו in the מבוי because he is מרבה עליהן את הדרך. There is a dispute between רש"י and תוספות as to the meaning of כנגד פתחו and מרבה עליהן את הדרך.

פירש הקונטרס¹ להקיף מחיצות סביבות הארבע אמות שיש לו במבוי כנגד פתחו –
רש"י explained that this מבוי בן intended to encircle his אמות ד' that he has (rights to) in the מבוי opposite his doorway, by surrounding it with partitions.

פירש"י rejects תוספות:

וקשה לרבינו יצחק דלא מצינו שיהא לו ארבע אמות במבוי² אלא בחצר³ –
And the מבוי בן has a difficulty with this פרש"י; for we do not find that a מבוי has a right to אמות ד' in the מבוי; it is only by a חצר that each house has אמות ד' in the חצר in front of its doorway, but no one has אמות ד' in the מבוי.

תוספות offers his explanation:

ונראה לרבינו יצחק כפירוש רבינו חננאל כגון שיושב בסוף המבוי אצל צד הסתום –
And the מבוי בן prefers the explanation of the ר"ה where for instance this מבוי lived at the end of the מבוי near the closed off side (at the very bottom of the U) -
ורוצה לסתום כנגד פתחו כל רוחב המבוי⁴ –
And he wants to close off opposite his doorway the entire width of the מבוי -

¹ בד"ה שבקש.

² He has אמות ד' in the חצר in front of his house so he can unload (which he cannot do in his house); however there is no need for אמות ד' in the מבוי since he can unload in the חצר in front of his house.

³ The reason the מבוי בני can prevent him from blocking and narrowing the width of the מבוי is (not only because he is מרבה עליהן את הדרך, but) because he has no [exclusive] rights in the מבוי, which belongs equally to all the מבוי בני!

⁴ All the other doorways of the חצרים into the מבוי are farther out past his intended closure (higher up on the U), so that his intended wall will not interfere at all with their entering and exiting their חצרות. And even though he has no exclusive right to the מבוי (see footnote # 2), nevertheless if he is in no way disturbing the מבוי בני, it would be a מדה to prevent him from building since it is לא חסר. See מטה יוסף for an alternate explanation.

והשתא קאמר רב הונא שמעכבין עליו בני המבוי אף על פי שהם חיצונים –

So now **רב הונא rules that the other בני מבוי may prevent him** from building that wall. **Even though their doorways are outside** his intended wall; so why should they mind if he builds a wall which will (seemingly) not disturb them? **רב הונא explains -**

לפי שמרבה עליהם את הדרך פירוש רגל בני אדם –

‘Because he is increasing the way for them’; meaning he is increasing the foot traffic of people -

שיכולין לומר בני המבוי [אף] כשיש רבים במבוי יכולים ליכנס עד סוף המבוי –

For the בני מבוי can argue that without your wall then even when there are many people in the מבוי it is not so crowded, for they can go in until the very end of the מבוי, giving us sufficient space -

ועל ידי הסתימה תרבה עלינו את הדרך על ידי בני אדם הדורכים עלינו במבוי –

However through this obstruction which will lessen the area of the מבוי, you will be מביי through all these people that are pushing us in the מבוי (because of the limited space) -

ואף לחצרות יצטרכו ליכנס מרוב דוחק –

And it will be necessary for them, because of the intense crowding, to even go into our חצרות.

⁵תוספות responds to an anticipated difficulty:

ומצינו לשון מרבה עליהם את הדרך בענין זה –

And we find the expression מרבה עליהם את הדרך in the aforementioned context -

דתנן לקמן בחזקת הבתים (דף נט,ב) לקח בית בחצר אחרת לא יפתחנו לחצר השותפים⁶ –

For we learnt in a משנה later in חזקת הבתים, ‘one who bought a house in another חצר (adjacent to the חצר in which he currently lives) he should not open it into a חצר where there are other partners beside him -

ומפרש טעמא בגמרא (דף ס,א) מפני שמרבה עליהם את הדרך דהיינו רגל בני אדם –

And the גמרא explains the reason for this ruling, because he is מרבה עליהם את הדרך (in the initial חצר); which refers to additional foot traffic, there will be people from both חצרות in one חצר, but not that the people of the חצר will need to walk a longer distance.

⁵ seemingly means that you are causing us to walk more. According to רש"י that he was planning to make a wall around his אמות ד', it is understood that for the people who live past this intended partition, they cannot go directly to their חצר, but must rather go around this סתימה. However according to תוספות what is meant by מרבה עלינו את הדרך; they need not go a longer distance?! תוספות will show that we do find that מרבה עלינו את הדרך means that it will be more crowded (but not [necessarily] that more walking will be required).

⁶ There were two חצרות adjacent to each other, but no passage between them. One who lives in one חצר and bought a house in the adjacent חצר cannot open a passageway from his house in one חצר to the other חצר, even though he (too) is a partner in both חצרות.

ובתוספתא דפרק קמא דמכילתין תניא יש לו חנות ברשות הרבים ומבקש לפותחו לחצר⁷ – offers an additional proof that מרבה עליהן את הדרך means additional traffic:

And in the תוספתא of the first פרק of our מסכת we learnt a ברייתא, 'one who has a store in the רה"ר and he wants to open it up to a חצר -

השותפים יכולים לעכב על ידו מפני שמרבה עליהם את הדרך:

The members of the חצר can prevent him from doing so because he is מרבה עליהן את הדרך; there too it means he is increasing the foot traffic, but not that they need to walk a greater distance.

SUMMARY

According to רש"י the מבוי בן המבוי intends to build a partition in the אמות ד' in front of his door and the בני המבוי can prevent this because he is making them take a circuitous route (מרבה עליהן את הדרך). The ר"י maintains that it is the person at the closed end of the מבוי who wants to close off his end diminishing the area of the מבוי. The בני מבוי prevent him because he is causing more foot traffic in the מבוי.

THINKING IT OVER

The חזקוני challenges רב הונא's ruling from the ברייתא of חמש חצירות which states that the פנימית is משתמשת עם כל או"א and the חיצונית משתמשת לעצמה. However according to ר"י ור"ח just like the חיצונית cannot be משתמשת with the פנימית, how can we allow the פנימית to cause damage to the חיצונית through causing⁸ that people will enter their חצרות?!⁹

⁷ He intends to make a passageway from his store into the חצר. However now the בני רה"ר will have access to the חצר via the חנות. This will increase the traffic in the חצר.

⁸ Granted that the פנימית may make use of the entire length of the מבוי, but that is only if he is not causing any difficulty for the בני המבוי (see רש"י ד"ה כולם that רש"י ד"ה כולם).

⁹ See נח"מ and פני שלמה.