

This can also be inferred; - דיקא נמי דקתני אם היתה רפת בקר קודמת כולי - for it was taught if the cattle stable preceded, etc.

Overview

The גמרא stated that we can infer that דירה שאני (in a דירה, one may be סומך initially [even according to רבא], as opposed to other situations), since regarding a דירה, the ברייתא ruled that if the רפת בקר was there first, it is permitted. תוספות discusses and challenges this inference.

ובכולהו¹ הרחקות דמתניתין לא תני הכי והוה ליה לאשמועין בשאר וכל שכן בדירה² -
And regarding all the required distancing of our משנה, it was not taught that if
he came first he may be סומך, only here by דירה, so if the permission to be סומך
applies to all the other cases (not like רבא), the ברייתא should have informed us
that מותר לסמוך by the other cases (which are not a דירה), and we would know
that certainly by a דירה one may be סומך -

דיקא נמי challenges the תוספות:

ותימה דלעולם בשאר הרחקות נמי מותר לסמוך והא דנקטיה הכא לאשמועין רבותא -
And it is astounding! for really we can maintain that by the rest of the הרחקות
ברייתא (even not by a דירה) it is also permitted לסמוך, and the reason the
mentioned this היתר here by חנות של נחתומין וכו' is to inform us of a novelty -
דאף על גב דהוי גירי דיליה³ אם היתה קודמת לאוצר מותר -

That even though it is 'his arrows', nevertheless if the רפת בקר preceded the
אוצר it is permitted -

דהשתא הוי חידוש אפילו⁴ לרבי יוסי⁵ -

¹ The words הכי וכו' ובכולהו are to be found in דקתני.

² The answer of the גמרא that דירה שאני assumes *a priori* that by a דירה there should be less restrictions on his use of the דירה than in other cases (see ד"ה דירה).. Therefore since the ברייתא makes the exception only by דירה, it is understood that in the other cases it is לסמוך.

³ גירי דיליה means that he is causing the damage directly like one who shoots at someone with his arrows. The heat of the bakery directly damages the foodstuff in the אוצר. It seems from here that תוספות maintains that by the other הרחקות it is not considered גירי דיליה. See 'Thinking it over'.

⁴ In the משנה on כה, there is a dispute; the ת"ק maintains that one must distance his tree twenty five אמות from his neighbors בור. However ר"י maintains that there is no need to distance since שלו וזה נוטע בתוך שלו. In this case it is not גירי דיליה, since the tree is not directly damaging the בור; the damage will only happen later. However, if it is a case of גירי דיליה even ר"י agrees that it is אסור.

⁵ The bakery damages the אוצר directly; it is גירי דיליה so even ר"י agrees that if the אוצר was first, one cannot open a bakery underneath it. The חידוש is that even though it is גירי דיליה, but since there is no אוצר yet; one may open up a bakery, and keep it open, even if later the one above opens an אוצר.

For now it is a novelty even according to ר"י -

ואי אשמועינן בשאר לא הוי חידוש אלא לרבנן⁶ -

But if he would have let us know this ruling that מותר לסמוך by the other cases

(where it is not גירי דיליה), it would have been a novelty only according to the רבנן -

אבל לרבי יוסי דקסבר על הניזק להרחיק לא הוי שום⁷ חידוש:

However according to ר"י, who maintains that the one who is being damaged needs to distance himself, there would be no novelty. תוספות does not answer his question.

Summary

תוספות asks that the reason he mentions the היתר לסמוך here, is because it is מותר even though it is גירי דיליה.

Thinking it over

It appears from תוספות that only this case of אוצר is considered גירי דיליה, but not the other cases in the previous משנה.⁸ However in the first תוספות in this פרק,⁹ writes that גירי דיליה is considered לא יחפור וכו'. How can we resolve this contradiction?!¹⁰

⁶ The רבנן maintain that even when it is not גירי דיליה the מזיק must distance himself (see footnote # 4). However if there was no ניזק the מזיק can be סומך.

⁷ In a case where it is not גירי דיליה even if there is a ניזק, the מזיק (according to יוסי) may do what he wants in his רשות (see footnote # 4), so what novelty is there that when the ניזק is not there, the מזיק can be סומך; it is obvious!

⁸ See footnote # 3.

⁹ תוס' כב,ב ד"ה לימא. See also יז,א ד"ה לא.

¹⁰ See נחלת משה and מהרש"א.