

And a bird that rested in the window

ועוף ששכן בחלון –

OVERVIEW

The **ברייתא** included a bird which settled in the window, as one of the items that are **חוצץ בפני הטומאה** to be ממעט בחלון. Our **תוספות** broadens this concept.

נראה דאתי אפילו לרבי מאיר דאמר (עירובין דף טו,ב) -

It appears to **תוספות** that this ruling of **ועוף ששכן בחלון** is **חוצץ**, is even according to **ר"מ** who maintains elsewhere -

כל דבר שיש בו רוח חיים אין עושין אותו לא דופן לסוכה¹ ולא לחי למבוי² כולו³ -

That anything which is alive cannot be used neither as a wall for a **סוכה**, nor as a slat for a **מבוי**, etc., nonetheless **ר"מ** can agree to the ruling here, for his ruling there -

דהיינו לענין מחיצת עשרה טפחים דוקא⁴ -

Is only regarding using a living thing as a **מחיצה** which needs to be **ten טפחים** -

אבל הכא לענין ממעט בחלון ממעט בכל דבר⁵ שיבטלנו:

However here regarding diminishing the opening of a window, he can diminish is with anything which he is **מבטל** to the window.

SUMMARY

ר"מ disallows using a living animal as a wall which requires **ten טפחים**, but allows using a living animal to reduce the size of an opening to be **חוצץ** on the **טומאה**.

THINKING IT OVER

1. Would **ר"מ** permit using an animal for a **מחיצה** if the animal is tied up so that it cannot move?

2. Is there an inherent difference between the requirement for a **מחיצה**, and the requirement to be **ממעט בחלון**?

¹ For instance one may not use a cow for one of the **סוכה** walls (even though it has the proper dimensions).

² In order to be able to carry in a (closed) alleyway (**מבוי**) which is open on one side to a **רה"ר**, a slat (or **לחי**) needs to be placed inside the **מבוי**, near where the **מבוי** opens to the **רה"ר**.

³ Therefore from that **גמרא** it seems that a **מחיצה** cannot be made from anything which is alive (for presumably since it is alive and moves, it cannot be considered a **מחיצה** which requires **קביעות**); it follows then that this bird cannot be used as a **מחיצה** to diminish the size of the window opening to less than a **טפח** (since it is not considered **קבוע**).

⁴ The wall of a **סוכה** and **לחי** are required to be **ten טפחים** high; therefore the animal may crouch or move so there will no longer be a **מחיצה** of **ten טפחים**.

⁵ The **גמרא** later establishes the case of a **צפור** that it is tied up and cannot fly away, so even though it may move, but it will always remain there and diminish the size of the opening. וצ"ע. See 'Thinking it over'.