

And a weaver

– וגרדי

OVERVIEW

The **ברייתא** taught that if one member of the **הצר** wants to become a weaver (in the **הצר**), another member of this **הצר** can prevent him from doing so.¹ **תוספות** reconciles this **ברייתא** with other seemingly contradictory rulings.

תוספות asks:

ואם תאמר ומאי שנא גרדי מבעל ריחים -

And if you will say; but why is a weaver different from a mill owner -

דתנן במתניתין² דאין יכול למחות בידו ולומר איני יכול לישן מקול הריחים ומקול הפטיש³ -

For our משנה taught that 'he cannot protest and say I cannot sleep because of the noise of the mill and the noise of the hammer'; why is a גרדי different?!

תוספות answers:

ויש לומר דמתניתין בעושה לעצמו והכא בגרדי העושה לאחרים דאיכא נכנסין ויוצאין -

And one can say that in the משנה the case is that the mill owner is working for himself (so there is no traffic, only the noise of the mill), however here we are discussing a גרדי who works for others (he weaves cloth for the public) so there are people coming and going, and one can protest this type of disturbance –

תוספות asks:

ואם תאמר הא אמרינן בסמוך⁴ האי בר מבואה דאוקי ריחייא כולי -

And if you will say; but הונא רב ruled shortly, this member of a מבויה who established a mill in his מבויה, etc. and another מבויה member intended to place another mill in the same מבויה -

דינא הוא דמעכב עליה משום דאמר ליה קא פסקת לחיותי -

The rule is that the first miller can prevent him from placing his mill in the same מבויה, since he can tell him, 'you are infringing on my livelihood'. This concludes the ruling of ר"ה -

משמע דאי לאו משום דקא פסקת לחיותי היה יכול להעמיד שם הריחים -

It seems that if not for the claim of לחיותי, the second one would be

¹ See מעבין ד"ה מעבין רש"י ד"ה מעבין that they may prevent him since this business will increase the noise of the people coming and going.

² כ.ב.

³ Why can one protest the noise of the weaver, but not the noise of the mill owner?

⁴ See עמוד ב'.

permitted to place his mill there -

אף על גב דעושה⁵ לאחרים⁶ -

And even though his is working for others; the mill is a business enterprise –

תוספות continues to ask:

ולקמן נמי תניא⁷ עושה אדם חנות בצד חנותו של חבירו כולי -

And later the ברייתא also teaches us that ‘one may make a store next to his friend’s store, etc.’; this is true -

דאף על גב דאיכא נכנסין ויוצאין טובא -

Even though there are many people coming and going, and here we say that if it is a business one can prevent it from opening –

תוספות rejects a possible solution:

ודוחק לחלק דהתם כבר יש יוצאין ונכנסין לריחים הראשון או לחנות הראשון⁸ -

And it is difficult to differentiate that there (in the cases of רחיים and חנות) **there is already foot traffic from the first mill or the first store,** therefore the additional foot traffic is somewhat bearable. תוספות rejects this answer as a דוחק.

תוספות answers:

ויש לומר דהתם בחצר אחרת שרי⁹ -

And one can say that there it is permitted because the other business is opening **in another חצר –**

תוספות offers an alternate answer to his first question:¹⁰

אי נמי מתניתין נמי בעושה לאחרים -

Or you can also say that our משנה, which does not allow anyone to be מעכב on the mill and the banging of the hammer **is also** in a case **where he works for others -**

ובריחים ובקול הפטיש אין נכנסין ויוצאין כל כך שנותנין לו פעם אחת וטוחן -

⁵ It is obvious that both mills are not private but for business purposes, for otherwise if they were intended only for private use, how can he claim להייתי קא פסקת להייתי.

⁶ The question is that תוספות previously stated that if the mill is used for business one can be מעכב, and from ר"ה it seems that the only reason he can be מעכב is because of competition, but otherwise one would be allowed to establish a mill for business and no one can be מעכב.

⁷ On the עמוד ב' See 'Thinking it over'.

⁸ The rejected proposed answer was that when there is no prior business and one wants to open a new business, the others may be מעכב because of the traffic; however in those two cases where there already was a business and there was already traffic (so the people are used to it), perhaps an additional store will still be bearable. תוספות rejects this as a דוחק for obviously two stores means much more traffic than one store.

⁹ See previous תוס' ד"ה אחד that a person from one חצר cannot be מעכב on a person from another חצר (even in the same מבוי). Therefore there is no question from ריחיים and חנות since the new business was in a different חצר.

¹⁰ See footnote # 3.

But nonetheless by a mill and hammer noise there is not so much foot traffic for they give him the wheat one time and he grinds it;¹¹ the same is with the smith -

אבל בגרדי יש הרבה יוצאין ונכנסין שהרבה מביאין לו מטוה:

However by a weaver there is a lot of foot traffic for many people bring him yarn to weave -

SUMMARY

The משנה is when it is a private mill or smithy, the case of גרדי is a business, the case of ריחים וחנות is in two separate הצרים, or all cases are businesses, however there is more traffic by a weaver than by a mill or a smith.

THINKING IT OVER

answers that the case of a חנות (בצד חנותו וכו') is when they are in two different הצרים. However when תוספות asked his question he assumed that they were in the same הצר;¹² why therefore did not תוספות ask how can we say that we cannot be מעכב the חנות, when in our משנה it clearly states לחנות יכול למחות!¹³

¹¹ According to this answer we can also explain why by ריחים וחנות they cannot be מעכב (if not for the claim of קא (פסקת) because in those cases there is little foot traffic.

¹² See footnote # 7.

¹³ See גזלת משה and מהרש"א א.