

לימא תנן¹ סתמא דלא כרבי יוסי –

Shall we say the *Mishnah* taught anonymously not like *Rabi Yosee*

OVERVIEW

The *משנה* stated that we must distance a ladder from a dovecote and a wall from a gutter *אמות* ד'. The *גמרא* assumed that this *משנה* does not follow the view of ר' יוסי.² According to ר"י there is no reason why in the *משנה*, there is a need for distancing, since each one is עושה בתוך שלו. The *גמרא* answered that (even) in our *משנה* it can be considered גירי דיליה and therefore even ר"י would agree that distancing is required.

פירש רבינו חננאל מדקאמר הכא טפי לימא דלא כרבי יוסי ולא קאמר אמשניות דלעיל³ -
The *משנה* explained since the *גמרא* preferred to ask here, 'perhaps this is not according to ר"י' and the *גמרא* did not ask this regarding the previous *משניות* -

משמע דכולהו אתי כרבי יוסי⁴ והוי כולהו גירי דיליה -
This indicates that all those *משניות* are according to ר"י and all of those cases are considered גירי דיליה (his arrows), where even ר"י agrees that הרחקה is required, therefore the *גמרא* had no reason to ask there כר"י -

גירי דיליה explains how all these cases are considered תוספות

דמהיהא שעתא משתכחא היזיקא⁵ ולא פליג רבי יוסי אלא באילן⁶ -

¹ The text in our *גמרות* (and רש"י) reads לימא מתניתין דלא (not לימא סתמא דלא). According to גירסת התוס', the *גמרא* is not merely asking a question (is this *משנה* in accordance with ר"י), but rather it is posing a challenge; how can it be that a *משנה* (where the הלכה is usually like a *משנה*) is not in agreement with ר"י (which indicates that the הלכה is not like ר"י), when later on כה,ב the *גמרא* cites שמואל אמר שיהיה רב יהודה that ר"י רב יהודה אמר שמואל כה,ב!

² The *משנה* later (כה,ב) cites a dispute between the חכמים and ר"י regarding a person who planted a tree (in his own property) which was within twenty-five *אמות* of his neighbor's pit. The חכמים maintain that if the בור was there first, the tree needs to be chopped down. However, ר"י maintains that the tree can remain, for each person is doing whatever it is on their own property (עושה בתוך שלו). The *גמרא* there continues that even ר"י agrees by גירי דיליה (his own arrows), that it is necessary to refrain from causing any damage.

³ This refers to the *משניות* on יז,א (regarding the הרחקות of וכו', גפת, זרעים ריחיים וכו', בור, גפת, (regarding חנות וכו' כב, (תנור, חנות וכו' כב, (regarding כותל וכו' regarding).

⁴ This is not like לימא בד"ה לימא רש"י who writes, 'וטובא מילי איכא במתניתין דודאי לא כר"י'. See 'Thinking it over'.

⁵ See רשב"א, who cites in the name of the רי"ף, three criteria for גירי דיליה: 1. The damage begins immediately when placed, 2. The item itself damages, 3. The damage is initiated from the place it was put. In the case of הרחקה הבור, the damage to the neighbor's property begins with the digging of the בור which loosens the neighbor's ground. The same applies to the other הרחקות.

⁶ When the tree is planted within אמה כ"ה of the בור there is no damage at all to the בור; what damages the בור are the roots which grow later and they do not damage from the place of the tree but rather from the place of the roots. Therefore ר"י maintains that it is not גירי דיליה and זה חופר בתוך שלו וזה נוטע בתוך שלו.

For the damage is prevalent from that time that he is סומך, **and ר"י argues** with the חכמים **only** regarding the **tree** and the pit.

תוספות responds to an anticipated difficulty:

וצריך לומר לפירוש דמתניתין דלעיל הוי נמי גירי דיליה -

And it will be necessary to say according to the פירוש ר"ה (who maintains that all the משניות are in agreement with ר"י) **that the previous משנה** (on א, כב) **- גירי דיליה** that it is also a case of distancing אמות ד' between two walls⁷ **דמיד כשסומך הכותל מונע הדושא:**

for as soon as the second neighbor **places his wall** within ד"א from the existing wall **he prevents דושא**, so the damage begins immediately.⁸

SUMMARY

All the הרחקות in this פרק are (even) according to ר"י since they are all considered אילן ובור (even the case of דושא), the only exception is גירי דיליה.

THINKING IT OVER

How can we explain the מחלוקת between רש"י⁹ and the ר"ה (regarding גירי דיליה)?¹⁰

⁷ Seemingly in that case the damage is preventing דושא, so how can that be considered גירי דיליה, for the damage caused by the lack of דושא (which is merely preventive) does not seem to start immediately, only after a while.

⁸ We consider preventing דושא as a היזק (on its own), not merely because later the walls may collapse, but the mere fact that the ground is not compacted, that itself is the היזק, and that begins immediately when he places his wall within ד"א from his neighbor's wall.

⁹ See footnote # 4.

¹⁰ See גהלת משה.