

He abandoned it and did not rebuild it נתיאש הימנה ולא גדרה -

OVERVIEW

The **ברייטא** states that if the **בעל הכרם** abandons the rebuilding of the wall, then the produce acquires the status of **כלאים** and is **אסור**. In addition the **בעל הכרם** is liable for damages. It seems from the **ברייטא** that both the **איסור כלאים** and the liability of the **בעל הכרם** are dependent on the '**נתיאש הימנה**'. Otherwise if he is still trying to rebuild the wall then it will not become **כלאים**, and obviously there is no liability. It is not clear why the **איסור כלאים** depends on the '**נתיאש**'. Concerning the **חייב** to pay, it is understood that as long as he is trying to repair the damage we cannot hold him responsible; he is doing all he can.¹ However concerning the **איסור כלאים**, that should be independent of his '**נתיאש**'. If it was the **הוסיף מאתיים** it should become **כלאים**, regardless whether he was **נתיאש** or not. **תוספות** will clarify this issue.

דוקא נתיאש אבל לא נתיאש ועוסק כל שעה לגדור אף על פי שהוסיף מאתיים מותר -

It becomes **כלאים** only **specifically when he abandoned** all efforts to rebuild the wall – **however if he did not give up and he is continually occupied in rebuilding** the wall even though that a two hundredth was added to the growth of the produce in the duration, the produce **is permitted** to be eaten. There is no **איסור כלאים** even if **הוסיף מאתיים** -

כדתנן במסכת כלאים (פרק ה' משנה ו') הרואה ירק בכרם -

As we learnt in a **משנה** in **מסכת כלאים** one who sees a vegetable in a vineyard which is considered **כלאים** if they are growing close together -

ואמר כשאגיע לשם אלקטנו הוסיף מאתיים מותר -

And he said, 'when I will arrive there, I will gather it';² the **דין** is that even if it grew an additional two hundredth, by the time he arrived to harvest it, nevertheless **it is permitted**. There is no **איסור כלאים**. On the other hand, if he said instead -

לכשאחזור אלקטנו³ הוסיף מאתיים אסור -

When I shall return (from whatever he intended to do then) **then I will gather it**, then the **דין** is if **it added a two hundredth** during this interlude, the produce is **prohibited**. It has the status of **כלאים**. This concludes the quote from the **משנה** in **כלאים**.

אלמא כשהוא מחזר אחר לקיטתו אפילו הוסיף מאתיים מותר -

It is apparent that when he is pursuing to gather the vegetable (as soon as

¹ See previous **אומר** ד"ה **תוספות**, footnote # 9, that **גרמי** is only **חייב במזיד**.

² This expression indicates that he is pursuing to rid his field from **כלאים** as soon as possible.

³ This indicates that he is not in a special hurry to eradicate **כלאים** from his field.

possible) **even if מאתיים was added** during his pursuit of harvesting it, **it is nevertheless permitted.**

The question is, what difference is there whether he is pursuing to rid his vineyard of כלאים or not. Seemingly it should depend only on whether it was הוסיף מאתיים or not. תוספות explains:

והטעם יש לפרש משום דכתיב (דברים כב) לא תזרע כרמך כלאים⁵ דומיא דזריעה דניחא ליה:

The reason for this דין may be explained; for it is written in the תורה do not plant כלאים (in) your vineyard. This teaches us that the איסור of כלאים needs to be **similar to planting.** This similarity consists **that just like by planting** it is obvious **that he is pleased** with his planting כלאים, for otherwise he would not plant the כלאים. Similarly, when כלאים is growing in one's field, it becomes prohibited only when there is a certain satisfaction that it is growing.⁶

SUMMARY

The פסוק states כלאים לא תזרע כרמך כלאים. We derive from this that the איסור כלאים is only when one is pleased with the כלאים growth; as is the case when one plants כלאים. Where one demonstrates that he is not satisfied with the כלאים growth, it is not כלאים. This explains why as long as the בעל הכרם is involved in repairing the wall there is no איסור כלאים. Similarly when one is going directly to uproot כלאים, it does not become כלאים, regardless how much it grew in the duration.

THINKING IT OVER

Seemingly even if the בעל הכרם was נתיאש it should not become כלאים, since the בעל התבואה is not happy with the situation.⁷

⁴ פסוק ט'.

⁵ There is an איסור כלאים even when one does not actually plant them together. If they happen to be growing together, even without any conscious effort to plant them, it is still prohibited to maintain כלאים. Nonetheless this prohibition against maintaining כלאים applies only when it is similar to planting.

⁶ Therefore in the case in מס' כלאים, when he is pursuing to gather the vegetable as soon as possible, it does not become אסור. It is apparent that he is not satisfied with the כלאים growth. Therefore it is irrelevant how much it grew in the meantime, since he is not satisfied. However when he is not pursuing to gather the ירק immediately, but states rather that he will do it when he gets around to it, this demonstrates that there is a certain satisfaction with the כלאים growth (for otherwise he would uproot it as soon as possible), therefore if הוסיף מאתיים it is כלאים. The same applies to the rebuilding of the wall. As long as he is involved in building the wall, he is demonstrating that he is not satisfied with the כלאים situation. It is only when he is מייאש from building the wall that it becomes אסור. He is demonstrating that he is not bothered (and in fact satisfied) by the כלאים growth

⁷ נח"מ מ'.