

Damage caused by many is different

הזיקא דרבים שאני -

OVERVIEW

כופין אותו of משנה, היזק ראייה לא שמיה היזק, attempted to prove that גמרא. The גמרא rejected this proof, and stated that in the case of 'וכו' everyone agrees that the היזק ראייה there is שמיה היזק, since it is a רבים of a היזק דרבים. will discuss why indeed is it a רבים.

anticipates the following difficulty:

ואף על גב דלקמן¹ משמע דאיירי בחצר שאינה סמוכה לרשות הרבים² –

And even though it seems from the גמרא later that this particular משנה is discussing a חצר which is not nearby to the ר"ה. If the חצר is not לרה"ר, why is there הזיקא דרבים.

replies:

מכל מקום איכא הזיקא דרבים דזימנין דדחקי רבים ועיילי להתם כדאמרינן לקמן –

Nevertheless there is הזיקא דרבים for occasionally the multitude of people crowd the רה"ר and it is uncomfortable to walk in the רה"ר and they enter into the area near the חצר as the גמרא states later; even though it is not the רה"ר, people walk there nevertheless. That is why even by a חצר שאינה סמוכה לרה"ר, there can be הזיקא דרבים because of זימנין דדחקי וכו'.

anticipates the following question. This חצר is לרה"ר. אינה סמוכה לרה"ר. רשב"ג maintains that it does not require a בית שער. We are not concerned about the public, since they are at a distance from the חצר. Why then does רשב"ג require the building of a door for the חצר? Seemingly there is no רבים on the outside to cause ראייה³. responds:

ורבן שמעון בן גמליאל אף על גב דלית ליה האי טעמא דזימנין דדחקי רבים –

And even though he does not agree with this reasoning that occasionally the multitudes crowd the רה"ר and the people walk near the חצר, רשב"ג therefore maintains that a חצר שאינה סמוכה לרה"ר is not required for a בית שער.

מכל מקום מרחוק יכולין לראות לפנים⁴ –

¹ דף ז,ב.

² The גמרא there mentions that רשב"ג maintains that the requirement to build a בית שער is limited only to a חצר הסמוכה לרה"ר. The רבנן disagree with רשב"ג and maintain that even a חצר שאינה סמוכה לרה"ר requires a בית שער.

³ See 'Thinking it over'.

⁴ We can imagine the three walls of a חצר shaped as a 'ח'. The bottom of the 'ח' opens to a 'מבוי', not directly to the רה"ר. The bottom of the 'ח' is closed with a door. The door however is being opened and closed by the החצר. To insure additional privacy a (half-circular) wall is built outside the door with an opening on its side (not directly in front of the door, but rather on the side of the semi-circle). For someone to see inside the חצר he would have to at

Nevertheless, even though people remain at a distance from the חצר they can see, from afar, inside the חצר and cause ראייה הזיקא.

ולכך לא פליג אלא אבית שער אבל בדלת מודה דכופין אותו לבנות:

And therefore רשב"ג does not argue with the רבנן except for the case of a בית שער, however concerning a door for the חצר, even רשב"ג admits that the members of the חצר can coerce any individual of that חצר to participate in building the door.

SUMMARY

A זמני דדחקי בה רבים is still subject to הזיקא דרבים, since זמני דדחקי בה רבים. A door however, is required even if we are not concerned for רבים since the בני רה"ר can look into the חצר from afar, if there is no door.

THINKING IT OVER

How can we understand that תוספות question on רשב"ג (why does he require a דלת),⁵ is not merely a question in order to understand the position of רשב"ג,⁶ but rather a way to prove that ראייה שמייה הזיקא?⁷

least get close to the opening of the בית שער. A שומר הפתח (who sits in this בית שער) would be hired to discourage people from venturing close to this opening. If we are not concerned of זימנין דדחקי, and if the חצר is סמוכה לרה"ר, then there is no need for a בית שער because no one is near the חצר. However that is true only if there is a door for the חצר. If there would be no door (and no בית שער) the opening to the חצר (the bottom of the 'ח') is fully exposed. The people in the distant רה"ר, would be constantly looking at the inside of the חצר. The door prevents that ראייה הזיקא.

⁵ See footnote # 3.

⁶ If that were so, then תוספות would have asked the question later in that סוגיא.

⁷ See בל"י.