

אלא כדי שיהא באספמיה – אספמיה Only in order that he should be in

OVERVIEW

taught that the reason why a חזקה requires three years, is so there should be sufficient time in a case where the original owner lives in אספמיה, that the מחזיק should make a חזקה for one year and the report will reach him in the second year, and the מחאה will take place in the third year.¹

דעז שם יש מהלך שנה ויותר מכאן אין דרך להרחיק יותר מקרקעו² –

For to reach אספמיה it is a walking distance of one year (from ישראל); however it is not customary for an owner to be further from his property more than a year's travel³ -

ואם הרחיק יותר לא פלוג⁴:

And even if he traveled away from his property further (more than a year's distance), the חכמים did not differentiate and only gave him up to three years total to make a מחאה.

SUMMARY

People live within a year's walking distance of their properties; we cannot be concerned about extreme cases.

THINKING IT OVER

What would be the ruling according to ר"י if the מערער lived less than one year's walk away, would the חזקה depend on how far away he lives, or do we say לא פלוג for less than a year⁵ as we say לא פלוג for more than a year?⁶

¹ See later in the גמרא מא,א (and the רשב"ם here יהודה) that according to ר"י if the חזקה is המערער, the rule is that חזקה הוי חזקה ר"י. לאלתר הוי חזקה (seemingly) does not agree with the סברא of איניש בשטרא שברא. See 'Thinking it over'.

² The מערער claims that it is his field, and he never sold it. It is highly unusual that a person should own property (in those days) more than a year's walking distance from where he currently lives. Therefore we assume that at the most the מערער lives within a year's distance; therefore a חזקה period of three years is sufficient for the מערער to hear about the חזקה and (come and) be מוחה.

³ See חת"ס who writes that the circumference of the globe is twenty-four thousand מיל, meaning that the furthest distance from a person is twelve thousand מיל. A person can walk in a day (ten פרסאות which is) forty מיל. In three hundred days he can cover twelve thousand מיל. Add the fifty-two שבתים and some טובים ימים (when one cannot walk due to תחומים) and it adds up to a complete year – כפתור ופרח!

⁴ See 'Thinking it over'.

⁵ See footnote # 1 & 4.

⁶ See בל"י אות שיג and נח"מ בגמ' ד"ה אר"י.