

**And if he bonded it with cement, it is a חזקה immediately.** – ואי חבריה בטינא לאלתר הוי חזקה

### Overview

The גמרא states that if a כשורא דמטללתא is placed on a neighbor's wall and cemented there, it is immediately considered a חזקה. This תוספות maintains that it is a חזקה in regards that the owner of the כשורא may keep it there forever, without having to remove it.

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**– and the רשב"ם says<sup>1</sup> – ואומר רבינו שמואל**

**that the חזקות mentioned previously**, such as אחזיק להורדי or אחזיק לנטפי

**– are not חזקות which require three years to be established<sup>2</sup> – לאו דשלוש שנים**

**– but rather they take effect immediately.** If the aggrieved party is aware of the action taken and does not protest, it is a חזקה immediately.

**– as the גמרא states here** that if he bonded the beam to the wall with cement it is a חזקה immediately, similarly with the other חזקות mentioned previously in our גמרא.<sup>3</sup>

### Summary

חזקת תשמישין is accomplished immediately.

### Thinking it over

1. Why (according to the רשב"ם וסייעתו) is there a difference between חזקת חזקה לאלתר where it is a חזקת תשמישין and חזקת קרקע which requires three years?

2. If חזקת תשמישין is established immediately by אחזיק להורדי וכו', why are thirty days required to establish a חזקה by a כשורא דמטללתא?

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<sup>1</sup> See in רשב"ם ו,א ד"ה תוס'. אחזיק להורדי in.

<sup>2</sup> A חזקה to establish ownership of קרקע requires three years. However a חזקה to establish a right of usage in a neighbor's property – חזקת תשמישין – that can be accomplished immediately (if the owner does not protest).

<sup>3</sup> This viewpoint of the רשב"ם is in opposition to the viewpoint of the ר"ת brought in the previous ד"ה תוס' ד"ה, who maintains that חזקת תשמישין also require three years to be established. The ר"ת maintains that the discussion about a כשורא דמטללתא is in regards to the question if he is to be considered שנתן or not in the case of חזקת תשמישין, but not in regard to סמך לו כותל אחר.