

On the two sides of a public domain

בשני צדי רשות הרבים -

OVERVIEW

אביי taught that if there are two houses on opposite sides of a ר"ר each owner is required to build a מעקה for half his roof, so that there should be no היזק ראייה from one roof to the other. The question that arises is, did אביי mean that *even* if they are on opposite sides we are concerned for היזק ראייה, and certainly if they are on the same side adjacent to each other; or did אביי mean that *only* if they are on opposite sides is there a concern of היזק ראייה.

אומר רבינו יצחק דוקא בשני צדי רשות הרבים¹ –

The ר"י says that the rule of עושה מעקה לחצי גגו וכו' is **only** if the two houses are **on two opposite sides of a ר"ר**; it is only then that we require each one to build a מעקה לחצי גגו שאין האחד מרגיש בחבירו כשעולה בגגו שיזהר ממנו –

Since one neighbor is not aware when his friend goes up to his roof that he should be careful on account of him. Therefore there is a concern of היזק ראייה. However if the two houses are not בשני צדי ר"ר, but are close (or attached) to each other, then there is no requirement that they build a מעקה לחצי גגו. If someone is doing something on his roof, he will be immediately aware if his neighbor is coming up to the roof, since they are close to each other. There will be no היזק ראייה.

תוספות proves this:

מדאמרין בסמוך אבל בין גג לגג לא:

As the גמרא **will shortly state**; that a גג הסמוך לחצר requires a מעקה of אמות ד', **however between one roof to another roof, there is no** requirement to build a מעקה.

SUMMARY

The rule of עושה מעקה לחצי גגו is only if the roofs are בשני צדי ר"ר but not if they are adjacent to each other.

THINKING IT OVER

If there is no היזק ראייה by a גג when he is aware of his neighbor's presence, then there should certainly be no היזק ראייה by a חצר, for he is surely aware of his neighbor's presence. Why is there a difference between a חצר and a גג?²

¹ The same rule applies for two sides of a ר"ר as the גמרא states.

² נח"מ.