

## This is the same as that

## היינו הך -

### OVERVIEW

The גמרא related two similar incidents where one petitioned his neighbor to rebuild (part of) the neighbor's house.<sup>1</sup> In both incidents the neighbor's position was upheld. He need not leave his house in order to have it rebuilt, regardless of the accommodations the petitioner will provide for him. The גמרא subsequently asked why there is a need to relate both incidents; they seem to teach us the exact same law. תוספות will question this assumption, and subsequently uphold it.

תוספות asks:

ואם תאמר והא אשמעינן בהאי עובדא דחדתא אעתיקא לא קאי דלא שמעינן מההיא דלעיל –  
**And if you will say; that in this (latter) story we are taught something different,**  
 than in the first incident, namely **that a new wall will not stand atop<sup>2</sup> of an old**  
 wall; this is something **which we cannot derive from the previous** incident.

תוספות anticipates that one may argue that the question הך היינו may (also) mean that the second incident is sufficient; why relate the first story.<sup>3</sup> תוספות responds:

ולעיל איצטריך כדאמרינן והני מילי דלא מוטו כשורי למטה מי' וכולי –  
**And it was necessary** to relate **that previous** incident as well as the גמרא  
**mentions there, 'and these words apply only when the beams did not reach**  
**down below ten טפחים, etc.'** This ruling cannot be derived from the second incident. תוספות  
 question is that it is necessary to relate both incidents for each one teaches us something that the  
 other does not. Why does the גמרא maintain הך היינו that both incidents are the same?!

תוספות answers:

ויש לומר דמילתא דפשיטא היא דחדא חדתא וכולה עתיקא<sup>4</sup> לא קאי –  
**And one can say; that it is an obvious fact that one new wall amongst all old**  
 walls **will not last.**

**ומשום הא לא הוה צריך לאתויי האי עובדא:**  
**And only on account** to teach us **this** fact that קאי לא עתיקא

<sup>1</sup> In the first instance the ceiling of the lower level sunk and it was difficult for him to stand in his lower level house. The petitioner offered to rebuild the house. In the second case, the petitioner blocked the windows of his neighbor, and offered to rebuild that wall and install new windows which would not be blocked, by his wall.

<sup>2</sup> From תוספות answer it is evident that the phrase חדא אעתיקא means a combination of old and new, not only old atop of new. See footnote # 4.

<sup>3</sup> See 'Thinking it over'.

<sup>4</sup> See footnote # 2.

**not necessary to relate this incident.** We know this on our own. This is not a ruling of הלכה. This is a practical reality.

### **SUMMARY**

It is not necessary for the גמרא to inform us of (physical) facts, which people are (generally) aware of.

### **THINKING IT OVER**

תוספות explains (in his question) why the first incident is (also) necessary.<sup>5</sup> Seemingly this answer is necessary even according to the מסקנא of the גמרא;<sup>6</sup> why does תוספות insert it here in his question?<sup>7</sup>

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<sup>5</sup> See footnote # 3.

<sup>6</sup> The גמרא answers that the second incident teaches us this ruling is valid even when it is a storehouse. The question remains what does the first story teach us?

<sup>7</sup> See מהרש"א, מהר"ם.