

## ‘Movable objects’ are different

## שׂאנִי מטלטלי –

### OVERVIEW

The גמרא differentiates between מטלטלי דניידי, which can be acquired through אגב, only if they are בתוכה, and מטלטלי דלא ניידים which can be acquired through אגב even if they are not בתוכה. Our תוספות will qualify the term מטלטלי דניידי.

פירוש<sup>1</sup> שיש להם דעת אבל בהמות לא חשיבי מטלטלי דניידי ונקנין באגב אפילו אין צבורים -

The explanation of the term מטלטלי דניידי is that they possess knowledge; this limits the rule of אגב to עבדים who have דעת; however cattle are not considered moving מטלטלין and are, therefore, acquired through אגב even if they are not piled up on the קרקע –

כדאמרין בפרק קמא דקדושין (דף כו,ב) טפח על טפח לפלוני ועמו מאה צאן:

as the גמרא relates in the first פרק of קדושין; a person states ‘I am giving a plot of land the size of a טפח by a טפח to him and with this field I am also giving him a hundred sheep’.<sup>2</sup> The recipient acquires the sheep through אגב, even though seemingly sheep are מטלטלי דניידי as are עבדים. This proves that only עבדים are considered מטלטלי and cannot be נקנה unless they are בתוכה; however animals can be נקנה through אגב even though they are not צבורין.

### SUMMARY

בעלי are נקנה through אגב only if they are בתוכה; however all other צבורים can be נקנה through אגב even if they are not בתוכה.

### THINKING IT OVER

1. What is the דין concerning the קנין of an עבד קטן through אגב. Is it necessary for the עבד קטן to be בתוכה or not?<sup>3</sup>

2. Why, concerning אגב, do we distinguish between בר דעת and not בר דעת; as opposed to distinguishing between ניידים and לא ניידים?<sup>4</sup>

3. Why does not תוספות cite the word 'דניידי' in his דיבור המתחיל (after all this is the main issue)?

<sup>1</sup> The term 'פירוש' is (usually) used to negate the simple meaning. Here too תוספות is negating the literal meaning of בהמות מטלטלי דניידי which would include בהמות.

<sup>2</sup> It is obvious that a hundred sheep cannot be צבורין on a טפח of קרקע.

<sup>3</sup> See אמ"ה.

<sup>4</sup> See נח"מ.