

A pipe which was first hollowed out and subsequently affixed; disqualifies the מקוה – **צנור שחקקו ולבסוף קבעו פוסל את המקוה**

OVERVIEW

A מקוה which contains (three לוגין of) מים שאובים (water which was drawn in a vessel) is פסול. If one wishes to draw water to a מקוה by means of a pipe, the pipe must be hollowed out (to become a pipe) only after it is first installed and affixed to the ground. Then it can be hollowed out and it will not be considered a receptacle, since it is considered as part of the ground.¹ However if the pipe is hollowed out before it is placed into the ground, then the pipe is considered a כלי and the water which runs through the pipe are מים שאובים which are פוסל the מקוה. Our גמרא argued that if קונה is שינוי השם, then the ruling should be that (even) by קביעתו, it should be פוסל the מקוה. Initially this pipe was a קציצתא (a block of wood) even after it was placed into the ground. Once it was hollowed out it became a צנור (a pipe); this is a (major) שינוי השם. The pipe should be considered as if a new pipe (which is a כלי) was placed into the ground (חקקו ובסוף קבעו), for the original קציצתא cannot be associated with this new צנור.² Our תוספות discusses the meaning and the status of this צנור. In addition תוספות clarifies the meaning of the question 'דמעיקרא קציצתא והשתא צינורא'.

כשיש לו לבזבז מד' רוחותיו איירי -

The ברייתא is discussing a pipe which has borders on all four sides;³ only then is it פוסל the מקוה if it is קבעו ובסוף חקקו (the borders make it into a כלי קבול -

שאם הוא פרוץ אפילו מרוח אחד לא היה פוסל המקוה -

For if the pipe was open even from one side it would not be פוסל the מקוה (since it is open at one end it is not a כלי קבול; it cannot contain the water) -

כדמוכח במסכת מקואות (פ"ד מ"ד) דדוקא טבלא שיש לה לבזבז פוסל -

As is evident in מסכת מקואות that only a tray which has borders is פוסל a מקוה, since it is considered a כלי קבול. However if it has no borders (on all four sides) it is not a כלי קבול and is not פוסל the מקוה.

תוספות offers an alternate view:

¹ It is considered as a tunnel or a ditch in the ground

² This צנור is not the קציצתא; it was never placed in the ground until after it became a צנור.

³ A regular pipe has two walls (between which the water flows); the beginning and end of the pipe are open, to allow in intake and outflow of the water. This pipe was enclosed in the front and back as well as the sides (the top however may have been open). See 'Thinking it over' # 1.

והרב יצחק מסימפונ"ת⁴ פירש דאפילו פרוץ משני רוחות איירי כדרך צנור -

And the ר"י מסימפונ"ת explained that we can be discussing a pipe which is open in two directions as is customary for a pipe -

וכגון שחטטו⁵ לקבל צרורות שלא יעכבו את הגשמים -

And the reason it is פוסל the מקוה is for instance that he gutted it in order it should capture the pebbles so that the pebbles will not hold back the rain water from flowing through the pipe -

כי ההיא דפרק ד' דמקואות (מ"ג) החוטט בצנור לקבל צרורות -

Similar to that which is mentioned in the fourth פרק of מקואות; 'if one guts out a pipe in order to capture the pebbles -

בשל עץ בכל שהוא ובשל חרס רביעית⁶ -

If it is a wooden pipe, the water is פוסל the מקוה (even) if the cavity (at the bottom of the צנור) is miniscule; and if the pipe is made from earthenware, a cavity the size of a רביעית⁷ (at the bottom of the צנור) is required to make the מקוה פסול.

והר"י מסימפונ"ת asks a question on the view of תוספות

ואם תאמר אם כן מאי קאמר מעיקרא קציצתא והשתא צנור -

And if you will say; if this is indeed so (that we are discussing a case where he gutted out the bottom of the pipe), what is the גמרא asking, 'initially it was block of wood and now it is a pipe' -

דמשמע דאפילו קבע תחילה יש לפסול המקוה לפי שמשנתה שמו על ידי חקיקה -

Which (seems to) indicate that even if he affixed the צנור initially (before the חקיקה), the מקוה should still be פסול since the name changed through the חקיקה.

This is what the גמרא asks. תוספות continues with his challenge on the פירוש of הר"י מסימפונ"ת -

והלא אין משנתה שמו על ידי חטיטה שעושה לקבל צרורות -

But there is no name change effected through the gutting that he does to capture the צרורות -

דאותה היא שגורמת לפסול את המקוה⁸ -

⁴ See; שם הגדולים בערכו מס' # 351 שנקרא ג"כ בשם הר"י בר מלכי צדק.

⁵ He dug out sections from the bottom of the pipe so that pebbles and other debris would collect in these cavities; enabling the water to flow over them.

⁶ The רביעית explains there חרס ובשל חרס it is not considered a קבול unless it contains a רביעית.

⁷ This is in a case of חקיקה לבסוף קבעו. However, if it was חקיקה לבסוף קבעו then it is always כשר even if there was חטיטה in the bottom of the צנור.

⁸ The initial חקיקה of the קציצתא to make it into a צנור cannot be פוסל the מקוה since it is מב' רוחות. The only reason to be פוסל the מקוה is on account of the subsequent חטיטה. When that חטיטה was made the קציצתא had already become a צנור through the חקיקה (which took place after the קבעו). Before the חטיטה it is כשר since it is פרוץ. At that point it is already called a צנור. When the חטיטה was made (after the חקיקה) there is no שינוי השם; it was a צנור and it continues to be called a צנור. Why should it be פוסל the מקוה?!

For it is this חטיטה, which causes the פסול of the מקוה, according to the הר"י מסימפונ"ת.

answers: תוספות

ויש לומר כיון שמשנתנה שמו על ידי חטיטה⁹ יש לחשבו בתלוש –

And one can say; that since its name changes through the initial hollowing out of the קציצתא (after it was קבעו), the hollowed out צנור should be considered as בתלוש (unattached to the ground)¹⁰ -

והחטיטה שעושה כאילו עושה אותה בתלוש:

And therefore the gutting out which he performs after the חקיקה should be considered as if he is doing it בתלוש. The new צנור should be considered as חקקו ולבסוף קבעו.

SUMMARY

The case of חקקו ולבסוף קבעו (which disqualifies a מקוה) is in a case where the צנור had borders and was a כלי קבול. Alternately, the צנור was open at both ends; however the bottom was gutted out (to capture debris) and it is therefore considered a כלי. The גמרא (initially) argues (according to the alternate explanation) that a שינוי השם (even if it causes no פסול) should render the צנור to be תלוש (even if קבעו ולבסוף חקקו) and the חטיטה should be considered as being done בתלוש.

THINKING IT OVER

1. According to תוספות that the צנור has a לבזבז on all four sides how is the flow of the water directed (from the source) into the מקוה?¹¹
2. According to the interpretation of the ר"י מסימפונ"ת, when was the חקיקה and the חטיטה made in the case of חקקו ולבסוף קבעו?¹² Was the חקיקה made before קבעו (and only the חטיטה was made after קבעו) or that (even) the חקיקה was made after קבעו (otherwise it is פסול)?¹³

⁹ This is amended to read חקיקה.

¹⁰ The צנור was never placed in the ground only the קציצתא (see footnote # 2).

¹¹ See נח"מ.

¹² Alternately; when was the חטיטה made in the case of חקקו ולבסוף קבעו (before or after the קבעו)?

¹³ See אמ"ה הערה 126.