

## Its place is rented to him

## מקומו מושכר לו –

### OVERVIEW

mentions that the rental of the מעשר space was accomplished through payment. תוספות explains why it could not be accomplished through חליפין.

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בסיפא קתני שקבלו שכר זה מזה<sup>1</sup> –

In the סיפא of this משנה it states that they received rent from one another-

תוספות asks:

ואם תאמר אמאי קבלו שכר היה לו להשאיל להם או להשכיר<sup>2</sup> בחליפין<sup>3</sup> –

And if you will say; why was it necessary to receive rent; ר"ג could have lent the קרקע to them or to rent it to them through חליפין?!

תוספות answers:

ויש לומר דשאלה ושכירות אינה נקנית בחליפין<sup>4</sup>:

And one can say; that lending and renting cannot be acquired through חליפין, קנין כסף, therefore it was necessary to have קנין חליפין.

### SUMMARY

חליפין through נקנה and שאלה cannot be.

### THINKING IT OVER

What would be the advantage if they would be שוכר the מקום with חליפין<sup>5</sup> as opposed to כסף [in either case they have to pay]?<sup>6</sup>

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<sup>1</sup> ר"ג received rent from ר"י and ר"ע for the place where the מעשר was found. This insured that they acquired possession (as a שוכר) of the קרקע on which the מעשרות were found. This enabled them to acquire the מעשר (through קנין חצר or קנין אגב) as the גמרא concludes. A מעשה קנין is required to become the tenant.

<sup>2</sup> See 'Thinking it over'.

<sup>3</sup> By חליפין the acquirer of the item (in this case ר"י ור"ע who are renting the מעשר) gives a כלי to the נותן or מוכר, and when the נותן receives the כלי, the item is transferred to the receiver.

<sup>4</sup> שאלה explains that anything which is returned to its original owner such as טובת הנאה is considered as merely a טובת הנאה, and by חליפין the קנין חליפין is not effective as mentioned shortly in our גמרא. (See נח"מ"מ). (בל"י אות שעז and נח"מ"מ). See footnote # 2.

<sup>5</sup> See footnote # 2.

<sup>6</sup> See שמועה.