

## ואתא מיטרא בלילה פסידא דפועלים –

### And rain fell at night; it is the workers' loss

#### Overview<sup>1</sup>

רבא ruled that if he hired workers to irrigate his field and it rained, he need not pay the workers. Some texts add that it rained the night (before). תוספות discusses the ramifications of this גירסא.

לספרים דגורסי בליליא צריך לומר דמיירי בסיירא לארעיה<sup>2</sup> -

**According to the texts that read, 'and it rained at night', it will be necessary to say that we are discussing a case where he surveyed the land with the workers the previous evening -**

דבלא סייר לא הוי פסידא דפועלים כדאמר רבא בההוא דלעיל<sup>3</sup> -

**For if he did not survey the land previously, the workers will not lose their pay as רבא ruled in the previous case.**

תוספות responds to an anticipated question:<sup>4</sup>

ואצטריך הך דהכא לאשמועינן דבאתי נהרא פסידא דבעל הבית דאף<sup>5</sup> על גב דסיירו לארעא<sup>6</sup> -  
**And it was necessary to mention this case here (regarding irrigation) to let us know (the סיפא) that if the river overflowed, it is the owner's loss, even if he showed them the land previously (it is only by rain where it is פסידא דפועלים [if סיירא לארעא]).**

תוספות clarifies:<sup>7</sup>

דלעיל בההיא דריפקא לא שייך לאשמועינן באתא נהרא -

**For previously, by the case of plowing it is not possible to teach us the ruling of**

<sup>1</sup> See 'Overview' to previous דאגר תוס' ד"ה דאגר.

<sup>2</sup> However, if we are not בליליא גורס, meaning that it rained during the workday then even if סיירא לארעיה, it would still be פסידא דפועלים. [If it rained at night it is ב"ב פסידא דבעה"ב for he should have informed them that they should not come to work (if it rains); however if it rained during the day after they came to work it is not the owner's fault.]

<sup>3</sup> רבא ruled (on [the bottom of] ע"ב) that if one hired workers to plow and it rained (at night) so it is impossible to work in the field; it depends, if he showed the workers the field the previous evening, then it is the workers' loss (for since they saw the field they should have realized that once it rained at night they will not be able to plow the field); however, if he did not show it to them, it is the owner's loss (for the workers thought that it is a field that can be plowed even after a rain [for the water drains easily]). The same applies in our case.

<sup>4</sup> The ruling here (regarding irrigation) seems to be the same as the previous ruling (regarding plowing). See 'Thinking it over'.

<sup>5</sup> The דאף (instead of דאף) amends this to read ואף (instead of דאף).

<sup>6</sup> The workers do not know that the river overflows; however the בעה"ב knows and should have informed them.

<sup>7</sup> Seemingly רבא could have taught us this difference between rain and an overflowing river in the previous case of plowing, why did he teach us another case of irrigating to inform us of this difference.

an overflowing river that it is פסידא דבעה"ב -

דאין רגילות על ידי גידול נהר דתיתמלי ארעא מיא שלא תהא ראוייה לריפקא בשביל כך<sup>8</sup> -

For it is unusual that on account of a rising river, that the land should be so inundated with water that it is not fit for plowing because of the overflowing.

תוספות responds to an additional anticipated difficulty:

ומההוא דדוולא דהכא אפילו הוה מפליג בין סיירא ללא סיירא -

And from the case of irrigation here, even if רבא would have explicitly differentiated whether it was סיירא (where it is דפועלים) or whether it was לא סיירא (where it is פסידא דבעה"ב), nevertheless

לא הוה שמעינן מינה ההיא דריפקא<sup>9</sup> -

We would not have known from the case of דוולא, this distinction by the case of plowing -

דהוה אמינא דגבי ריפקא אפילו סיירא לא הוי פסידא דפועלים -

For I would have said that by plowing, even if סיירא it would still not be פסידא - דפועלים

דלא היה להם לידע דתיתמלי מיא כל כך על ידי מיטרא שלא יוכלו לרפוק בה<sup>10</sup> -

For they could not have known that the rain would cause it to be so flooded that they should not be able to plow, so it is not their fault; on the other hand -

אבל הוא מכיר קרקעו שהמטר מונעה מריפקא ולא היה לו בבקר להוליכין שם -

However, the owner knows the nature of his land that rain prevents one from plowing there, so he should not have led the workers to the field.

גמרא offers an alternate explanation of our תוספות:

ועוד יש לומר דהכא גבי דוולא אפילו לא סיירא הוי פסידא דפועלים -

And alternately one can say; that here by דוולא even if סיירא, it is still פסידא - (לא סיירא and סיירא where we distinguish between רפקא and דפועלים)

ולהכי לא מפליג בה בין סיירא ללא סיירא כבאידיך -

And therefore רבא did not distinguish by דוולא between סיירא and לא סיירא, as he distinguished by the other case of רפקא -

<sup>8</sup> Therefore practically speaking there would be no פסידא דבעה"ב since the workers can still plow. However regarding irrigation it is understood that if the river overflows, the field has no need for additional irrigation (even though it can still be plowed).

<sup>9</sup> question is why teach two rulings one by רפקא and one by דוולא, let רבא just teach by דוולא (the difference between סיירא and לא סיירא) and we would assume the same applies by רפקא. [We would also understand on our own that by רפקא there is no need to distinguish between מיטרא and נהרא, since by נהרא the workers can still plow.]

<sup>10</sup> The recurring theme here is that it takes much more water to prevent workers from plowing a field than it takes to make irrigation superfluous (a lesser amount of water provides sufficient irrigation, but still allows plowing).

**דהתם אי לא סיירא לא הוי פסידא דפועלים -**

**For there by פסידא דפועלים it is not סיירא if the owner was רפיקא**

**לפי שהפועלים אין להם לידע שהמטר ימנע קרקעו מריפקא<sup>11</sup> -**

**Because the פועלים are not responsible to know that rain will prevent them from plowing his land, so therefore if סיירא it is דבעה"ב -**

**אבל בדוולא רוב השדות מתמלאות בהם יאורים על ידי המטר -**

**However regarding דוולא, by a majority of fields their canals are filled with water through rain; this is common knowledge -**

**ולא היה לו לירא יותר מפועלים ולא פשע במה<sup>12</sup> שהולכים שם:**

**So the בעה"ב had no need to be concerned more than the workers that it may be irrigated by the rain, so the בעה"ב was not negligent, by [not] bringing them there to survey it, for they know as much as he does that it can be irrigated sufficiently by rain.**

### **Summary**

Rain can render irrigation unnecessary more than it can make plowing impossible. We therefore need both rulings of רבא. There are two views whether the פסידא is only if דוולא or even if סיירא.

### **Thinking it over**

expains that we really do not need the case of מיטרא (by דוולא) since we can derive it from מיטרא by ריפקא; the case of דוולא is only necessary for אתי regarding rain, because by דוולא we could have thought that משמיה רחמי עליה and they should get full wages;<sup>14</sup> this cannot apply by ריפקא since the work was not done (as it was done by דוולא; the field was irrigated by the rain)!<sup>15</sup>

<sup>11</sup> See footnote # 3; the פועלים assume that the field drains easily and can be plowed even after a rain.

<sup>12</sup> The הגהות הב"ח amends this to read שלא הולכים במה (instead of שהולכים במה).

<sup>13</sup> See footnote # 4.

<sup>14</sup> רבא says they don't get their wages because we only say משמיה רחמי עליה by an אריס, but not by a פועל. See תוס' ד"ה דאגר previous.

<sup>15</sup> See # 69-71. אוצר מפרשי התלמוד and מהר"ם שי"ף.