

עבד דפסיק פסידא דבעל הבית – If it usually dries up it is the owner's loss

Overview¹

רבא ruled that if one hired workers to irrigate his field, and the river (from which they drew the water) dried up, if it was common for this river to dry up and the workers are from this city, it is פסידא דפועלים (otherwise it is פסידא דבעה"ב [unless it did not usually dry up]). תוספות explains why in the previous case (of the river overflowing) these qualifications are not mentioned.

גבי ואתא נהרא דלעיל לא מפליג בין רגיל למיתי ללא רגיל -

Regarding the previous case, where the river overflowed, רבא did not distinguish (as he did here) whether it was usual to overflow or unusual (rather in all cases it is פסידא דבעה"ב), the reason is -

דסתמא עבד למיתי² שלכך יש בו חריצין להוליך המים בכל השדה -

For presumably it is usual for the river to overflow, for therefore there are irrigation ditches in the field to spread the water over the entire field -

ולא מפליג בין בני ההוא מתא לבני מתא אחריתי -

And רבא did also not distinguish in the previous case of נהרא whether the workers were from that city, or from another city (as he differentiated here by פסק - נהרא) -

דאפילו איתנהו בההוא מתא הוי פסידא דבעל הבית -

For there, by נהרא, ואתא נהרא, even if the workers lived in that city it would still be פסידא דבעה"ב -

דאין להם לידע ענין שדהו אם בא מן הנהר לתוכה אבל אם פסק הנהר יודעין כל³ בני העיר:

For the workers are not expected to know the character of his field, whether the river water flows into his field (therefore it is פסידא דבעה"ב); however if the river dried up all the people of the city are aware of it (so it is פסידא דפועלים).

Summary

Fields with irrigation canals indicate that they expect the river to overflow (but will not necessarily irrigate all the fields). The entire city is aware when the river dries up.

¹ See 'Overview' to the previous תוס' ד"ה ופסק.

² The owner should, therefore, have told them that if the river overflows you will not be paid your (entire) wages. However regarding the workers (even if they are aware that the river overflows, nevertheless) they are not sure that it will irrigate this field as תוספות states shortly.

³ It affects the entire city; everyone is talking about it.

Thinking it over

1. What would be the ruling in a case of **אתא נהרא**, but in a situation where it is not usual for the river to overflow?

2. **explains why by פסיק נהרא** there is a difference whether **עביד** or not; however by **אתא נהרא** the rule is that it is always **פסידא דבעה"ב** (since **מסתמא** it is **עביד** **דמיתי**). Seemingly there is a simple(r) explanation, by **אתא נהרא** the irrigation was done therefore the **פועלים** should get paid (even if it is **עביד** **לא**), however by **פסק** **נהרא** the work was not done, so why should he pay the **פועלים** (if it is an uncommon occurrence)?!⁴

⁴ See # 74. אוצר מפרשי התלמוד