

## ספינה מינח נייחא ומיא הוא דקא ממטו לה –

**The ship is indeed resting; it is the water that moves it**

### OVERVIEW

רבא explained that a ספינה is not considered a חצר מהלכת (despite that it is moving) and therefore it can serve as a קנין חצר. The reason is that we consider the ספינה to be at rest, and the water causes it to move. [It is different from an animal that moves on its own accord.] תוספות will explain the difference between a ספינה which is considered נייחא, and similar cases where we consider an object to be moving, even though it is not moving on its own.

-----

תוספות anticipates a difficulty:

אף על גב דבפרק קמא דקדושין (דף לג,ב) אמרינן דתלמיד חכם רכוב כמהלך דמי<sup>1</sup> –

**Even though that in the first פרק of מסכת קידושין, the גמרא states that a who is riding is considered as if he is walking,** so how can we say here that a ship is not a חצר מהלכת because of מוטו לה, it is not different from (ממטי ליה) and nevertheless the רכוב is considered a מהלך. Here too the ship should be considered a חצר מהלכת.

תוספות responds:

הכא חצר משום יד אתרבאי<sup>2</sup> והוה שפיר דומיא דיד דמינח נייח וממטו לה עם גופיה –  
**Here we are discussing קנין חצר, which was added as a mode of קנין as an adjunct of יד, and indeed the חצר is similar to יד, in the sense that the יד indeed rests and is carried along with the body;**<sup>3</sup> similarly the ship rests and is carried along by the water.<sup>4</sup>

תוספות will show another case where (we are also not discussing קנינים, and), different criteria are used to judge whether something is considered at rest

וכן בפרק קמא דשבת (דף ה,ב ושם דיבור המתחיל אגוז) –

**And similarly in the first פרק of מסכת שבת, the גמרא states -**

---

<sup>1</sup> One is required to stand up if his teacher (רבו) is walking before him (but not if he is sitting). The גמרא ruled that if רבו was riding (even though he is sitting) it is considered as if he is walking and one is obligated to stand up.

<sup>2</sup> The תורה writes (שמות [משפטים] כב,ג) regarding a גניבה וגו' that גניבה וגו' (אם המצא תמצא בידו הגניבה וגו'). The גמרא (on יב,ב) derives from the words המצא תמצא that not only is his יד קונה (the גניבה), but also his חצר as well.

<sup>3</sup> See 'Thinking it over'.

<sup>4</sup> However, concerning a ת"ח רכוב (which has no connection to קנין יד), there different criteria are used to judge him a מהלך since he is actually moving (towards the תלמיד).

**אגוז צף על גבי מים לא הוי הנחה אגוז בכלי וכלי צף על גבי מים מהו—**

**A walnut floating on top of the water is not considered at rest;<sup>5</sup> what is the ruling concerning a walnut in a vessel which is floating on the water<sup>6</sup>.** Seemingly there too it should be considered at rest and it is the water that is moving (the walnut or the utensil). Why does the גמרא maintain that the walnut is not at rest?

Tosfos explains:

**התם משום דדומיא דמלאכת המשכן בעינן —**

**There the אגוז is not considered at rest because we require that all מלאכת be similar to המשכן שבת -**

**ולא היו מצניעין חפצים בדבר שהיה מתנענע ומתנדנד —**

**And by the משכן they would not put away articles in something which moves and shakes -**

**אבל גבי קנייה כיון שהוא דומיא דידו קני:**

**However concerning acquisition since it is similar to his hand, it acquires** (even though there is movement), just as there is movement by the hand.

### **SUMMARY**

Objects that move not of their own accord, are considered moving and not at rest; however concerning חצר, קנין חצר, an object which moves not of its own accord (as an animal), but rather by something else (like a ship), is not considered moving because it is similar to יד which is moved by the body.

### **THINKING IT OVER**

It seems that Tosfos maintains that since the יד moves because of the body, therefore the יד is not considered מהלכת.<sup>7</sup> It would appear that the body is מהלכת. Why therefore is the ruling that if a גט is placed in the hand of her servant, she is not מגורשת since this is a חצר מהלכת; the hand as Tosfos states is not מהלכת. Similarly if one would place the גט on the woman's head, she would not be מגורשת, since the woman is a מהלכת, but this is definitely not so! How can we understand תוספות?<sup>8</sup>

<sup>5</sup> On שבת one is liable for הכנסה, הוצאה, or אמות ד' מעביד provided that the article is eventually placed down and resting (הנחה). If one carried an אגוז and made the הנחה on water, it is not considered a הנחה and there is no חיוב for (מדאורייתא) בשבת מלאכה.

<sup>6</sup> Would there be a חיוב if he made the הנחה of the אגוז in a כלי which was floating on the water. It is not clear why it was necessary for Tosfos to cite this query. [See סוכ"ד אות סה and נח"מ.]

<sup>7</sup> See footnote # 3.

<sup>8</sup> See 67-8. אמ"ה and תוספות here on גליון הש"ס להגרע"א.