

## עציץ של אחד וזרעים של אחר –

### A flowerpot belonging to one, and the plants belonging to another

#### Overview

The גמרא teaches us that if one owns a flowerpot and the other owns the plants in the flowerpot, if they wish to transfer ownership, the plant owner can acquire the עציץ through משיכה, however the בעל העציץ cannot acquire the זרעים במשיכה, since it is considered like קרקע and needs to be acquired בחזקה. Our תוספות discusses the advantage of teaching us this rule in this particular manner.

-----  
comments: תוספות

הוא הדין דהוה מצי לאשמועין הכל בעציץ וזרעים של אחד<sup>1</sup> -

It is just as true that the גמרא could have informed us all these laws in a situation where the עציץ and the זרעים belonged to one person -

אלא לרבותא נקט הכי דאף על גב דבעל עציץ קונה זרעים לא קנה -

Rather the גמרא mentioned this situation for a novelty, that even though it is the owner of the עציץ who is acquiring the זרעים, nevertheless he does not acquire the זרעים (with משיכה) -

אף על פי<sup>2</sup> שהם בתוך העציץ שלו:

Even though the זרעים are within his עציץ.

#### Summary

There is a novelty that the בעל העציץ does not acquire the זרעים which are in his עציץ.

#### Thinking it over

1. Why indeed<sup>3</sup> cannot the בעל העציץ be קונה the זרעים through קנין חצר (like the cases of חצר של קונה, which are considered his חצר)?<sup>4</sup>

2. Why cannot we learn this ruling by עציץ וזרעים של אחד<sup>5</sup>, where he sold both to one person and he made a משיכה (in the עציץ) and nevertheless he is not קונה the זרעים?!<sup>6</sup>

<sup>1</sup> The גמרא could have said if he sells the עציץ, only משיכה is required, but if he sells the זרעים we require חזקה.

<sup>2</sup> One may have assumed that since the זרעים are in his עציץ, he does not need to make a חזקה (he should be קונה the זרעים on account of קנין חצר since they are in his עציץ [see 'Thinking it over']), the גמרא teaches that nevertheless he must make a חזקה. We would not know this חידוש if it was by אחד של זרעים וזרעים.

<sup>3</sup> See footnote # 2 (in the parenthesis).

<sup>4</sup> See משה and חתם סופר.

<sup>5</sup> See footnote # 1.

<sup>6</sup> See 20-24. # אוצר מפרשי התלמוד.