

ואם נשאל זה בפני עצמו וזה בפני עצמו טהורות –

And if one asked for himself and one for himself they are טהורות

OVERVIEW

The משנה (which the גמרא cites here) states a case where there were two roads, of which one was טמא, and two people traveled, one on each of these roads, and afterwards they touched טהרות, and the משנה rules that if they each came separately to inquire as to their status and that of the טהרות, the טהרות are טהורות. Our תוספות qualifies this ruling.

לא שיאכלם אדם אחד דאם כן יאכל ודאי טומאה -

When the משנה stated that the טהרות are טהורות, **it did not mean that one person may eat both sets of טהרות, for if he will indeed eat them both, he will certainly eat טהרות which are טמא**, which is certainly forbidden, but rather the משנה means that separate people may eat each set of טהרות. –

¹ תוספות proves his point:

דהכי אמרינן בשבועות בפרק ב' (דף יט, א) הלך בראשון² ולא נכנס בשני ונכנס חייב³ -

For this is what the ברייתא states in the second פרק of שבועות, 'he went on the first road and did not enter the ביהמ"ק afterwards, and then we went on the second road and entered into the ביהמ"ק he is חייב⁴ for entering the בטומאה -
דטמא הוא⁵ ממה נפשך:

¹ תוספות seeks a proof for one may argue, if we allow two different people to eat each set of טהרות (even though we know that one of them is eating ודאי טומאה), so why cannot one person eat both טהרות. [Alternately one may argue that since we already ruled for each individual that the טהרות which he touched are טהור; that היתר remains and cannot be reintroduced (as part of a ספק) even if both טהרות are eaten by one individual (see מהרש"ל).]

² There too we are discussing a case of שבילין ב', where one was טמא and the other was טהור.

³ הלך בראשון ונכנס הזה ושנה וטבל ואח"כ הלך בשני ונכנס חייב וכו', ורבי שמעון בן יהודה פוטר בכולן; [The גמרא there continues; משום ר' שמעון (when he פוטר בקמייתא ר"ש be ר"ש; how can he פוטר ואפילו בקמייתא ממה נפשך טמא הוא; and therefore two people are permitted to eat them) but מ"מ between the two אכילות, the one person ate טמאים (and therefore two people are permitted to eat them) but מ"מ between the two אכילות, the one person ate טמאים. [Alternately (see מהרש"ל and footnote # 1 [in the brackets]) that since the גמרא asks on ר"ש (see footnote # 3 [in the brackets]) how could he be פוטר בקמייתא since he is surely טמא, when seemingly we can answer that after he went on the first road he asked and was told he is טהור, so therefore that היתר

⁴ He is חייב a (עולה ויורד) if he entered קרבן בשוגג and is חייב כרת if he entered מזיד.

⁵ See מהרש"א that we can derive from the second case of the ברייתא in שבועות (see footnote # 3, where he was טהור and הזה in between his trips) where if one person went on both roads he is חייב for בטומאה, even though it is possible that each time he entered the מקדש he may have been טהור (the first time perhaps it was the road which was טהור, and the second time, perhaps the first road was טמא and he was טהור already from that טמא through the הזאה), nevertheless he is חייב for מ"מ he is חייב either for ביאה ראשונה or ביאה שניה, similarly here even though on each אכילה we are not sure that he is eating טמאים (and therefore two people are permitted to eat them) but מ"מ between the two אכילות, the one person ate טמאים. [Alternately (see מהרש"ל and footnote # 1 [in the brackets]) that since the גמרא asks on ר"ש (see footnote # 3 [in the brackets]) how could he be פוטר בקמייתא since he is surely טמא, when seemingly we can answer that after he went on the first road he asked and was told he is טהור, so therefore that היתר

Because he is טמא in any event (either by traveling on the first road or on the second road).

SUMMARY

טהור are טהרות each one asked separately and we rule that the two טהרות are טהור that is only for two different people but not for the same person.

THINKING IT OVER

1. Why is it that both the מהרש"א and מהרש"ל are of the opinion⁶ that proof תוספות cannot be from the רישא which תוספות actually quotes?⁷

2. Why did not תוספות bring proof (that one person may not eat both טהרות) from the ruling (in this משנה) that if they asked simultaneously everything is טמא; one person eating both טהרות is seemingly the same as בב"א? Similarly תוס' could have brought proof from the משנה in טהרות (cited in the previous תוס' that by שבילין ב' and one person if he was not מטהר in between, the טהרות are טמאות.⁸

remains and cannot be introduced again later (as part of the ספק). The fact that the גמרא did not consider this answer proves that we do reinstate the ספק once there is a ממ"נ that now he is certainly טמא, the same is here that we reintroduce the previous היתר as part of the ספק and the two sets of טהרות are forbidden to eaten by one person because one of them is ממ"נ. See 'Thinking it over' # 1.]

⁶ See footnote # 5.

⁷ See מהרש"א הארוך who cites commentaries who derive תוספות proof from the רישא.

⁸ See מגן גבורים and מהרש"א.