

לפני סוחריו בהמה לעולם מעשר –

In front of the cattle merchants; it is always מעשר

OVERVIEW

The משנה teaches us that money which is found before cattle merchants (in ירושלים) are considered מעשר שני money (and have to be treated as such with all the applicable restrictions¹). The reason is because there is an abundance of מעות מעשר brought to ירושלים and it was mainly used to buy קרבנות שלמים from these cattle merchants. It is therefore assumed that this found money is מעות מעשר. When the money exchanges hands, the בהמה becomes מעשר (שני) (and can be brought as a קרבן שלמים as well), and the מעות מעשר becomes חולין (by the seller). There is a dispute between רש"י and תוספות why we assume that the found money is מעות מעשר (the buyer lost it) as opposed to מעות חולין (the seller lost it).



פירש הקונטרס אף על פי דאיכא למתלי במוכר כמו בלוקח -

explained; even though we can attribute this money to the seller (which is not מעשר money) as much as to the buyer (which is מעשר money); why do we assume that it is the buyer's (and therefore מעשר) money?

רש"י explains that nevertheless since -

מספיקא תלינן לחומרא –

it is doubtful,² we assume the stricter option; namely that it is מעשר money, and all the restrictions of מעשר apply to it.

disagrees: תוספות

ואין נראה לרבינו יצחק דסמוך מיעוטא דחולין דשאר מעות לפלגא דמוכר –

And the ר"י does not agree to רש"י's interpretation. There is no equal probability of the money being either מעשר or חולין. **For we append the minority of other secular money³ to the half of the seller's money⁴ -**

והוה ליה רובא להיתר –

¹ ירושלים and food bought with מעות מעשר שני may be eaten only in ירושלים.

² There is an equal probability of this being the seller's money (and therefore חולין) or the buyer's money (and therefore מעשר); in such a case where there are equal probabilities we assume the stricter option.

³ There is a possibility that the buyer is using חולין money (not all buyers use מעות מעשר [especially in the non-holiday seasons]).

⁴ The seller's money is definitely חולין; he is not buying any קרבנות, and the money he receives from the buyers become חולין, for they are redeemed with the purchase of the בהמות. See 'Thinking it over' # 1.

And the majority is permissible money (not מעשר money).⁵

מעות מעשר offers his interpretation why it is מעות מעשר:

ואומר רבינו יצחק דלוקחים הו' רובא דכמה בני אדם עומדים⁶ על בהמה אחת לקנות:

And the ר"י maintains that the buyers are a majority (compared to the minority of one seller) **for there are many people waiting to buy one cow.**⁷ Presumably the money was lost by the buyers who are a majority and therefore the money is considered מעות מעשר.

SUMMARY

רש"י maintains that it is (an even) ספק whether the found money is from the buyer or the seller; we assume the stricter view and attribute it to the buyer. תוספות maintains that the majority of people in the vicinity of cattle merchants are buyers therefore the majority compels us to consider it מעות מעשר. (Otherwise it would not be an even ספק, for there is a minority of buyers who are using חולין money.)

THINKING IT OVER

1. תוספות argues that we should say לפלגא דמוכר וכו' סמוך וכו'.⁸ Perhaps the מוכר also has מעות מעשר; it should remain half-and-half!⁹

2. When deciding in this case of מעות מעשר, whether there is a majority (or not); do we consider the number of people who represent either possibility¹⁰, or do we consider the amounts of money¹¹ that represent either possibility?¹²

⁵ There is an equal probability (according to רש"י) that the money belonged either to the seller or the buyer. The seller's money is definitely חולין (which makes it [at least] a 50% probability that it is חולין), while the buyers money is not definitely מעשר (for there are some buyers who use חולין money). There is a definite minority of buyers who are using מעות חולין. This minority decreases the 50% probability that it is מעות מעשר and increases to more than 50% the probability that it is מעות חולין (if we assume [as רש"י does] that there is an equal probability that it came from either the buyer or the seller). תוספות question on רש"י is why do we consider it מעות מעשר, when (according to רש"י) the רוב is חולין!

⁶ See the הערה # 16. 'דכמה בני"א משתתפין לקנות בהמה אחת' who writes; תוספות הרא"ש.

⁷ At any given moment when a cow is being sold there is only one seller and (presumably) many buyers competing to buy this cow (or waiting around for the next cow to be put up for sale).

⁸ See footnote # 4.

⁹ See מהרש"א (הארוך).

¹⁰ There are more people who have מעות מעשר in their possession than there are people who have מעות חולין in their possession.

¹¹ The monies that were originally מעות מעשר (all) become מעות חולין after the purchases. It is just a question at what time the money was lost, before or after the exchange.

¹² See ברכת אברהם and דבר שמואל.