

## These boats of *Meeshohn*

## הני ביציתא דמישן -

### Overview

מישן in the boats of ד' אמות ruled that one may not carry more than רב הונא. There is a dispute between רש"י and תוספות as to the nature of these boats.

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asks: תוספות

לפירש"י דמפרש<sup>1</sup> שהן קצרות מלמטה<sup>2</sup> קשה -

There is a difficulty on פרש"י who explains that the ביציתא דמישן were narrow on the bottom -

דכי היכי דבטיל מדין רשות היחיד משום דלית בהו ד' הכי נמי ליבטיל מדין כרמלית -

For just as they are excluded from the status of a רה"י, since they are not wide four טפחים by four טפחים, so they should also be excluded from being a כרמלית -

כדאמר בפרק קמא (דף ז,א) דאין כרמלית פחותה מד' -

As the גמרא states in the first פרק that there is no כרמלית in an area less than דע"ד<sup>3</sup> ואקילו<sup>4</sup> בה רבנן מקולי רשות היחיד<sup>5</sup> דאי הוי מקום ד' כרמלית ואי לא מקום פטור<sup>6</sup> -

And the רבנן were lenient regarding a כרמלית by attributing to it the leniency of a רה"י, so that if there is an area of דע"ד then it is a כרמלית but if it is less than דע"ד it is a מקום פטור.

פרש"י has an additional question on תוספות:

ועוד מאי פריך לימא גוד אחית מחיצה<sup>7</sup> מה מועיל שיהא המחיצות מבחוץ -

And furthermore what did the רב נחמן ask, let us say גוד אחית מחיצה, what will be accomplished that there will be partitions on the outside -

<sup>1</sup> בד"ה ביציתא.

<sup>2</sup> The walls of the boats were slanted and were joined on the bottom, like our canoes. It seems (from many מפרשים [see footnote # 9]) that this boat (even though it was extremely narrow by the keel, nevertheless) there is a space (above the narrow bottom) which is דע"ד with a height of י"ט. See 'Thinking it over' # 1.

<sup>3</sup> This can be found on ב,ז there.

<sup>4</sup> An enclosed area of דע"ד is a רה"י and if one transfers an object into it from the רה"ר he is חייב, however if the enclosed area is less than דע"ד it is a מקום פטור and one is permitted to transfer from it to a רה"ר or a רה"י and vice versa. The same rule applies to a כרמלית that the איסור מדרבנן from transferring to and from a כרמלית from a רה"י or a רה"ר (and vice versa) is only if it is דע"ד, but less than דע"ד it is a מקום פטור and one may transfer in and out of a מקום פטור to anywhere else.

<sup>5</sup> The הגהות הב"ח amends this to read כרמלית ד' הוא דהויא (instead of כרמלית ד').

<sup>6</sup> In a מקום פטור one is permitted to carry more than ד"א, so why cannot they carry more than ד"א in the ביציתא דמישן (see however ריטב"א בשם הרא"ה).

<sup>7</sup> גוד אחית מחיצה literally means pull (גוד) down (אחית) the partition (מחיצה). רב נחמן asked since by the top of the boat there is a מקום דע"ד, let us utilize the concept of גוד אחית מחיצה and draw down the outside walls of the boat so we will have virtual walls that are י"ט and a מקום דע"ד till the bottom, so it will be considered a bona fide רה"י. See רש"י ד"ה ולימא.

**כיון שמבפנים אין שם ריוח מקום ד' ולא ניחא תשמישם -**

**Since on the inside there is no space of a דע"ד area, so its usage is uncomfortable -**

**ודופן הספינה שבקצר מבטל גוד אחית כמו חלוקה במחצלת דלעיל<sup>8</sup> -**

**So the sides of the boat where it is narrow, negates the גוד אחית just like the division with a mat, mentioned previously.**

A final question on פרש"י:

**ועוד למה לי מלינהו קני ואורבני<sup>9</sup> אף על גב דלא מלאן -**

**And additionally; why do we need that he filled it with reeds and willows to make**

**it a רה"י even if he did not fill it with קני ואורבני it should also be a רה"י -**

**כיון דיכול למלאות חשיב רשות היחיד כדאמר בפרק חלון (עירובין דף עה, א) -**

**For since he can fill them, it is considered a רה"י even if he did not actually fill**

**them as רב אשי said in פרק חלון -**

**משום דאי בעי מנח עליה מידי ומשתמש גבי מלאו כולו ביתידות<sup>10</sup> -**

**Regarding the case where he filled it completely with pegs that it is a ד' מקום,**

**because if he wants he could place something on top of the pegs and use the space.**

רש"י ask three (unrelated) questions on תוספות:

1. If it is not a רה"י (because it is not דע"ד) it is not a כרמלית either. 2. How can גוד אחית make it into a רה"י since the actual walls are מבטל the מחיצה. 3. Why do we need to actually fill the ship with קני ואורבני, the fact that it can be done is sufficient.

ונראה כפירוש רבינו חננאל דביציתא הם ספינות קטנות העשויות להלך באגמים -

<sup>8</sup> קא. The case there was regarding a pit which was טפחים (by ד"ט [making it a רה"י]) and someone threw a mat from the רה"י into this בור and it remained upright, thus dividing the pit into two parts, neither of which has טפחים דע"ד; the rule is (according to אב"י) that if someone throws an object there from a רה"י he is פטור, for the מחיצה is מבטל the מחיצות. We do not consider each half of the pit that it is encircled by the original walls (which would make it דע"ד) but rather we consider the מחצלת as negating the original walls and now each half of the pit contains an area which is bordered by the מחצלת which makes them each less than דע"ד (the מחצלת takes up some of the space). question is that here too even if we were to draw down the walls of the boat, so on the outside we would have virtual walls of י"ט encircling an area of דע"ד (the area of the top of the boat). However since the real walls of the boat are inside the outside virtual walls, therefore the outside virtual walls are not enclosing an area of דע"ד since the inside real walls make a new מחיצה so the space inside these real walls is less than דע"ד, just like the מחצלת is מבטל the מחיצה. [If a מחצלת (which is a temporary מחיצה) can be מבטל real מחיצות, so the real walls of the boat should surely be able to be מבטל the virtual walls of אחית.]

<sup>9</sup> See רש"י ד"ה ואי, that if he filled the bottom of the boat with קני ואורבני until it reached the wider part of the boat (which is דע"ד) the boat is a רה"י (if the walls of the boat extend י"ט above the קני ואורבני [see footnote # 2]).

<sup>10</sup> We see from there that even though as it stands now the space is not usable (because of the pegs), but nevertheless since we can make it usable by placing a board over it, therefore it is considered a ד' מקום even without placing the board over it; the same should apply here since we can fill it with קני ואורבני and then it would be a רה"י, therefore it should be a רה"י even without placing the קני ואורבני there.

And prefers the s'h"r explanation that ביציתא are small boats which are made to go in the swamps -

ועל שם שמהלכות על בצעי המים קרי להו ביציתא -

And because the travel over the water marshes they are called ביציתא (marsh boats) -

ויש להם דפנות וקרקעית העשויות נסרים נסרים ויש חלל בין הנסרים והמים נכנסין שם -

And these boats have solid sides, but the bottoms are made of many planks, and there is space between the planks and the water enters there between the planks -

ויושבין בה כמו במים והיא עשויה כך שאפילו תתהפך אינה נטבעת לעולם -

And they sit in these boats as if they are in the water and it is made in such a manner that even if it capsizes it will never sink (the wood must be very buoyant) -

וקאמר רב הונא כיון שהיא פרוצה דינה ככרמלית<sup>11</sup> ואין מטלטלין בה אלא בד' -

And ruled that since it is breached (there are spaces between the planks) it has the status of a כרמלית and one may not carry in it more than אמות ד' -

ולא אמרו אלא בזמן שאין בין נסר לנסר חלל פחות מג' -

And this rule applies only when there is no separation less than three טפחים between one plank and the other (there is a space of ג"ט or more between the planks) -

אבל אם יש בין נסר לנסר חלל פחות מג' כלבוד דמי -

However if the space between the planks is less than three טפחים it is like לבוד (attached), and it is a רה"י -

ואף על גב שהמים נכנסין בה לא חיישינן -

And even though the water enters into the boat, we are not concerned and it is a רה"י -

ונראה דלא גריסינן שאין בפחות מג' ד'12 -

And it seems to the following; 'there is not four טפחים where it is less than three טפחים high' -

concludes:

ואי מילא כל החלל קני ואורבני מותר<sup>13</sup> לטלטל בכולה:

and if he filled the entire space in between the planks with קני ואורבני, so there is no space of ג"ט between the planks, it is permitted to carry in the entire boat'.

<sup>11</sup> It is presumably a כרמלית since one is sitting in the water; which is a כרמלית, so the boat is also a כרמלית, there is nothing substantial separating it from the water in which it is found.

<sup>12</sup> This גירסא is appropriate according to פרש"י (see ד"ה אכל and ד"ה ולא) that the sides slant inwards and become narrow; however according to פר"ח the boat is דע"ד from top to bottom. See תוס' הרא"ש who justifies this גירסא even according to the פר"ח.

<sup>13</sup> See 'Thinking it over' # 2.

## **Summary**

according to רש"י are canoe like boats, and according to תוס' the bottom planks of the boat are widely separated and water enters into the boat, which makes them a כרמלית.

## **Thinking it over**

1. asks on פרש"י that just like it is not a רה"י (since למטה it is not דע"ד), in the same manner it is not a כרמלית either. However there is a difference; a רה"י requires מחיצות, therefore since it narrows at the bottom it can be considered a תלויה which would invalidate it from forming a רה"י; however by כרמלית there is no need for מחיצות, so since we have a מקום דע"ד higher up on the boat, it should be a כרמלית!<sup>14</sup>

2. ends that if he filled the spaces with קני ואורבני it is מותר לטלטל בכולה.<sup>15</sup> Why is it that when רש"י explains that when filled it with קני ואורבני one may carry, תוספות ask why do we need to fill it, being able to fill it is sufficient,<sup>16</sup> so is not the same question on תוספות, why do we need to fill it?!<sup>17</sup>

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<sup>14</sup> See שפת אמת.

<sup>15</sup> See footnote # 13.

<sup>16</sup> See footnote # 10.

<sup>17</sup> See שבת של מי.