

מאי טעמא ידו לא נייה –

What is the reason? His hand is not at rest

OVERVIEW

¹ This cannot be resolved s' query and ruled that כעקירת חפץ דמי is עקירת גופו and the עני which extends into the רשות היחיד and the בעה"ב places something in this hand and the עני removes it to the רה"ר (and it is not considered an עקירה). The difference is that the extended hand is not at rest in the רה"ר. There are other texts which read ידו בתר גופו גרירא; the hand is drawn towards the body. There is a dispute between רש"י and תוספות as to the correct reading of the text, and its implications.

נראה לרבינו יצחק כלשון אחר² דגרס –

The ר"י prefers the text of the לשון אחר which reads -

ידו דבתר גופו גרירא בעי עקירה³ גופו לא בעי עקירה⁴ –

‘The hand which is drawn towards the body requires an עקירה; however the body does not require an עקירה’.

ולמאי דגרס נמי ידו לא נייה מפרש רבינו יצחק דהיינו משום דבתר גופו גריר⁵ –

And the ר"י explains furthermore that even according to the texts which read ידו לא נייה (his hand is not at rest) and therefore an עקירה is required; the reason is because בתר גופו גריר; the hand is drawn to the body.

גמרא cites s' different interpretation of the תוספות:

ורש"י פירש' ידו לא נייה על גבי קרקע –

And רש"י explained ידו לא נייה to mean that it did not rest on the ground.

¹ In order for there to be a proper עקירה from a רשות, it is not necessary that the item be removed from its (immediate) resting place (the body) as one side of the query would have it, but rather if the item is removed (from the רשות) still attached to its resting place (גופו) it is still a valid עקירה. See footnote # 10.

² See רש"י ד"ה ל"א (bottom of עמוד).

³ The hand (of the עני) which is extended to the רה"ר is drawn after the body (which is in the רה"ר), therefore when the בעה"ב places an item into the עני hand and the עני removes it, we do not consider that there was an עקירה (in the רה"ר), since ידו (which is in the רה"ר) is גריר בתר גופו (which is in the רה"ר). In order for the עני to be חייב for הוצאה he must make an עקירה from a fixed place in the רה"ר (either the קרקע of the רה"ר or the hand of the בעה"ב who is in the רה"ר).

⁴ When an item is resting on a person's body, it is sufficient that the person merely leave this רשות (for it to be considered an עקירה) and stop in the other רשות (for a הנחה). There is no need for a specific עקירה, to pick up the item from the רשות where he is. The עקירה of the body is the equivalent of the עקירה החפץ.

⁵ See 'Thinking it over # 2.

⁶ ד"ה (ידו וד"ה) גופו.

משמע אפילו הוא וידו במקום אחד ונתן לו חברו לתוך ידו והוציא פטור –

It seems from פרש"י that even if the person was together with his hand in one רשות and his friend placed something into his hand and the recipient carried it out, he will be פטור, since ידו (which is not נייה) requires a specific עקירה.

disagrees: תוספות

ואין נראה דבכל ענין שהטעינו חברו בין על כתפו בין על ידו והוציא חייב⁷ –

And this is not the view of תוספות, for in whichever manner his friend loaded him, whether on his shoulder or on his hand and he carried it out he is חייב.

proves that he is חייב even if the item was placed on his hand: תוספות

דהא קתני או שנטל מתוכה והוציא חייב –

For our משנה teaches; ‘or if the עני took it from the hand of the בעה"ב and took it out, the עני is חייב. This concludes the citation from our משנה -

אלמא הנחת חפץ ביד בעל הבית שהוא וידו ברשות אחת הויא הנחה⁸ –

It is evident from our משנה that an object which is resting in the hand of the בעה"ב, while he and his hand are in one רשות, is considered at rest; this is evident - מדחייב העני שעקר מיד בעל הבית⁹ –

Since the עני who removed the item from the בעה"ב hand is חייב; if the object would not be at rest ביד בעה"ב, then the עני did not make a proper עקירה -

וכיון דהויא הנחה כשעוקר גופו עם זה שבידו הרי עוקרו ממקום הנחה¹⁰:

So therefore, since the item is considered at rest when the בעה"ב and his hand are ברשות אחת, it follows that when he moves his body together with whatever is in his hand, he is removing it from its resting place and it is considered a proper עקירה, which would make him חייב if he was מוציא this item (which is בידו) to another רשות.

SUMMARY

The distinction between עקירת גופו and our משנה where שניהם פטורים is (according to

⁷ See ‘Thinking it over’ # 3.

⁸ See ‘Thinking it over’ # 1.

⁹ To be considered a proper עקירה, the item must be at rest prior to the עקירה. See גמרא later (ה,א) regarding removing water from a sloping wall, that it is not an עקירה, since והא לא נח, the water is not at rest.

¹⁰ We cannot use this logic (that since the item is מונח ביד בעה"ב, therefore an ידו (גופו) עקירת is a valid עקירה) to prove that עקירת גופו is a valid עקירה (see (מהרש"א), for that is the query; even assuming that an item on a person is מונח nevertheless it may not be considered a proper עקירה unless the item is removed from its resting place. However once we established that עקירת גופו כעקירת חפץ דמי (that it is not necessary to remove the item from its resting place; it is sufficient that the item be moved together with its resting place), then once we determine that the item is at rest בידו, then moving the item together with ידו is the equivalent of moving the item together with גופו and in both cases it is a proper עקירה (see (מהר"ם). See footnote # 1.

understanding of (רש"י) that גופו is resting on the ground while ידו is not. The implication of this (according to understanding of (רש"י) is that if one placed an item in his friend's hand (when גופו וידו are אחד) and he was מוציא the item he is פטור.

According to תוספות the distinction is that the hand which is extended in another רשות cannot be considered at rest in that רשות since ידו בתר גופו גריר; however if the hand is in the same רשות then it is considered at rest as evident from our משנה that there is a חיוב if the item was taken from the hand.

THINKING IT OVER

1. רשות proves that an item which is בידו when גופו וידו are in one רשות is considered מונה from the case of מתוכו והוציא או שנטל (setting up his refutation of (רש"י)).¹¹ Seemingly תוספות could have proven it simply from the case of ביד בעה"ב חייב; proving that the item is at rest ביד בעה"ב when הוא וידו ברשות אחת.¹²

2. According to תוספות is the reason he is פטור by לרשות אחרת because (since ידו בתר גופו גריר) his hand is not considered מונה at all, or because his hand is not considered (מונה) in that רשות?¹³

3. What would the ruling be if an object was placed בידו (and הוא וידו ברשות אחת) and he transferred the object to another רשות making a הנחה, but using only ידו; his body remained in the original רשות.¹⁴ Is this עקירת ידו (עקירת גופו without) considered an עקירה or not?¹⁵

¹¹ See footnote # 8.

¹² מתק שפתים.

¹³ [Can this depend on the two גירסאות? See footnote # 5.]

¹⁴ See footnote # 7.

¹⁵ רא"ש.