

Rather רב יוסף said, etc.

אלא אמר רב יוסף וכולי –

OVERVIEW

introduces the concept of **מקום** ליה משויא that the intent of a person to place an object in a specific place or to remove it from a specific place renders that place a **מקום ד'**. Therefore, **תוספות** asks, since in our **משנה** there is intent to remove the object from the hand, as well as to place it in the hand, it should be considered a **מקום ד'**, because of the intent. **תוספות** explains that there are different levels of intent, and in order to say **מחשבתו משויא ליה** **מקום**, the intent must be exclusive.

קשה לרבינו שמשון בן אברהם מה צריך רבה ורב יוסף להעמיד המשנה כתנאים –
The רשב"א asks why is it necessary for רבה and רב יוסף to qualify the תנאים¹ (which does not require a 'מקום ד' (מקום ד' משנה), according to various **משנה**, implying therefore that the **משנה** is not according to everyone, when they could say that the **משנה** is according to everyone -

והא סבירא להו בפרק בתרא דעירובין (דף צט,א ושם) דמחשבתו משויא ליה מקום –
Since רבה ורב יוסף maintain in the last פרק of עירובין that his intent suffices to render it as a significant place of ד' על ד' –

דקאמר התם רב יוסף השתין ורק חייב חטאת –
for רשות to another רשות, he is חייב a חטאת חייב רב יוסף said there that if he relieved himself or spit from one רשות to another רשות, he is חייב a חטאת חייב –

ופריך והא בעינן מקום ד' וליכא –
And there asks on רב יוסף, why is he חייב, we require a 'מקום ד' for an עקירה, and in this case there is none, since the place on his body from where he spit, etc., i.e. the mouth, etc., there is no 'מקום ד', so why is he חייב?!

ומשני מחשבתו משויא ליה מקום –
And the גמרא answers, that his intent – that he wants to remove the spit, etc. from this specific place in his body, his mouth, etc. - renders it as a significant place, and therefore he is חייב, because we consider the עקירה to be from a מקום חשוב.

The **גמרא** there continues to prove its point that **מקום** ליה משויא
דאי לא תימא הכי הא דאמר רבה זרק בפי כלב או בפי כבשן חייב וכולי-

¹ רב יוסף according to ר"ע, and רבה according to ר"ע

for if you will not say so, that מחשבתו משויא ליה מקום then there will be a difficulty with that which רבה said that if he threw an object into the mouth of a dog or into the mouth of a furnace² he is חייב etc., even though the mouth of the dog is not a מקום, but since he intended that it should land there, so מחשבתו משויא ליה מקום, the same³ is true in the case of רב יוסף that מחשבתו משויא ליה מקום.

It is evident from the גמרא in עירובין that both רב יוסף⁴ and רבה⁵ agree to the concept of מחשבתו משויא ליה מקום, so let us say that in our משנה also, everyone agrees (not only ר"ע, that he is חייב, even though there was no מקום ד', עקירה והנחה מעל מקום ד', nevertheless he is חייב because מחשבתו משויא ליה מקום since he intended to either take it from the hand or place it in the hand.

answers: תוספות

ותירץ רבינו תם דהא דאמר מחשבתו משויא ליה מקום –

The answers that this concept of מחשבתו משויא ליה מקום ר"ת

היינו היכא דלא ניחא ליה בענין אחר כמו משתין ורק –

Applies only in a case where he is not content if it would be done in any other manner i.e. that he wants the עקירה והנחה to be from a specific place [and/or to specific place] exclusively, as in the illustration that was given by רב יוסף namely **relieving oneself or spitting –**

שאינו יכול להשתין או לרוק בענין אחר –

Where it is impossible for him to relieve himself or spit in any other manner, except that it come from his mouth, etc. which is not a מקום ד' –

וכן זרק בפי כלב שרצונו שיאכלנו הכלב או שישרוף העץ בכבשן –

and the same is true in s'רבה case where he threw the food into the mouth of the dog that he wants specifically that the dog should eat it or in s'רבה second case that he wants that the wood should be burnt in the furnace, only in such limiting circumstances do we say מחשבתו משויא ליה מקום.

To defend this argument that the cases quoted above are only if he specifically intended for the עקירה והנחה to be in a specific place only, תוספות says:

ולא גרסינן התם ונח בפי כלב דנח משמע דאין כוונתו לכך –

² See רש"י עירובין ד"ה בפי הכבשן "שקלטה שלהבת ונשרפה"

³ See 'Thinking it Over' #1

⁴ In the case of עקירה

⁵ In the case of הנחה

The text in עירובין should not read "ונה בפי כלב", "and it landed in the mouth of the dog" for the word 'נה' - 'and it landed' - has the connotation that he had no intention as such, but rather it just happened to land, and this cannot be so, for if it was not intended specifically for the dog's mouth, the concept of מקום ליה משויא would not apply, therefore the text reads (according to תוספות) he threw it into the mouth of the dog, omitting the word 'ונה'.

This is pertaining to the גמרא in עירובין, where רבא ורב יוסף maintain מקום ליה משויא אבל הכא אינו חושש אם מקבל בידו או בכלי אחר –

However here in our משנה he i.e. the עני or the בעה"ב is not particularly concerned whether he receives⁶ the object in his hand or in another receptacle, therefore the concept of מקום ליה משויא does not apply in our משנה.

anticipates the following question:

והא דאמר לקמן (דף ה,א) הוה אמינא היכא דאחשבה לידו –

And concerning that which the גמרא says later concerning a case where someone threw an object and it *landed* in another's hand, he is חייב, the גמרא asks, why is it necessary to tell me this דין, we already know from our משנה that a person's hand is considered a מקום ד', to which the גמרא responds: that from our משנה **one might think** that a hand is considered a מקום ד' **only in a case where he considered the [receiver's] hand significant**, meaning that he intended to place the object in his hand, here however it merely landed in his hand, so we may think that in such a case it is not considered a מקום ד', therefore קמ"ל that it is.

It is evident from that גמרא that it considers our משנה a case of אחשבה לידו that he intends to place it in his hand, and that would be the reason – in the אמינא – why he is חייב

אף על גב דניחא ליה שיקבלנו בענין אחר כמו בידו –

Even though he is equally satisfied to receive the object in another manner not necessarily in his hand; as תוספות pointed out previously, that in our משנה, he is not insistent to receive it only in his hand, for if he would insist on receiving it only in his hand, then we would say מקום ליה משויא (and that would be sufficient to consider it a מקום ד'), so why does the גמרא say that since אחשבה לידו, I would think, that is the reason that it is a good הנהגה, when we just stated, that in order that אחשבה should have the power to make it a מקום ד', it is only when his intent was to place it exclusively in the hand.

⁶ עקירה refers to הנהגה, the same is true regarding the תוספות

responds: תוספות

היינו משום דקאמר ידו של אדם חשובה לו כד' על ד' –

In that גמרא we are already aware that a person's hand is significant as a place which has 'ד' על ד', nevertheless in the הוה אמינא we thought that when do we say 'ד' על ד', only when he intended to place it in the hand (even when the intention was not exclusive), however, when it happened to fall into a hand then it is not 'ד' על ד'. חשוב כד' על ד'. The מסקנא is however that 'ד' על ד' always, even when there is no intent at all, it just fell into the hand. However in our גמרא we have not yet learnt the דין that a person's hand is like a 'מקום ד', and we would like it to be considered a 'מקום ד' because משהו ליה מקום, for this it is required that he insists on receiving it in his hand exclusively, and nowhere else, which clearly is not the case.

אבל בשאר דברים לא משוי ליה מחשבתו אלא היכא דלא ניחא ליה בענין אחר:

However, in other situations i.e. the cases of the dog or the spitting, where there is no 'מקום ד' at all – his intent cannot cause it to be a significant מקום unless it is a case where he is not content if it were performed in any other manner.

SUMMARY:

is only when his intent is to remove it from - or place it in - a specific place, exclusive of any other place. מחשבתו משויא ליה מקום

THINKING IT OVER

1. How may we attempt to refute the proof from רבה's case that מחשבתו משויא ליה מקום that it may not apply to רב יוסף's case⁷ (based on the previous תוספות)?
2. How are we to understand מחשבתו משויא ליה מקום in the case of עקירה?⁸
3. How does the concept of מחשבתו משויא ליה מקום differ in תוספות תירוצ' as opposed to תוספות קשיא?
4. What is the explanation of the הוה אמינא, that 'ד' על ד' is only when ידו של אדם חשובה לו כד' על ד' לידי?

⁷ See footnote # 3.

⁸ See מנחת אריאל אות ג.