

Here the basket is below ten טפחים from the ground. כאן למטה מי'

Overview

The גמרא said that our משנה, which is dealing with the receiving the objects in baskets, is not in contradiction with the שיטה of ר"י בר"י who holds that a basket that is 'ד' על ד' and is placed 'מי' למעלה is a רה"י, because in our משנה, the baskets were 'מי' למטה, and therefore are not a רה"י, but a רה"ר, and therefore he is חייב.

גמרא has two questions on our תוספות:

1. Why is he חייב, even if the basket is 'מי' מטה? Granted that it is not a רה"י, but it is not a רה"ר either, rather it is a כרמלית, and therefore the בעה"ב should be פטור, since he was מוציא from a רה"י to a כרמלית, and not to a רה"ר.
2. It seems that the reason we are saying that the basket was 'מי' למטה, is in order that we should not contradict ר"י בר"י, but in truth even without ר"י בר"י we must say that the basket was 'מי' למטה for if it were 'מי' למעלה, which is a פטור מקום he would be פטור.

If you will ask: granted that if the basket is below 10 טפחים **it will not be a רה"י**

nevertheless it will not be a רה"ר either – רשות הרבים נמי לא הוי

but rather we will consider this basket as a כרמלית

high and טפחים 3 or more like a post which is – כמו עמוד גבוה שלשה ורחב ד' has an area of ד' על ד', which is a כרמלית, so the question is;

why is the בעה"ב חייב when he placed the object into the עני' s basket, since the basket has the status of a כרמלית, there was no רה"ר בהנחה.

by דין כרמלית that there is no כרמלית בכלים – **we may answer;**

גמרא (דף ח,א) **explains later** in the **רש"י** as – כמו שפירש רש"י לקמן

concerning the case where one's box was lying in the רה"ר etc. The גמרא says there, that if the box was 'מי' ורחב ד', one is permitted to transfer objects from the box to the רה"ר. רש"י questions this ruling, since the box is a כרמלית, how may we transfer from a רה"ר to a כרמלית? רש"י answers (ח,א ד"ה פחות מכאן) that the חכמים did not make a גזירה to nullify it from the status of כלים since it is a כלי. A כרמלית therefore can only be a (fixed) object (in a רה"ר), not a (moveable) utensil. Therefore the basket will remain a רה"ר.¹

¹ See שפת אמת. See 'Thinking it over' #1.

the ר"י has a difficulty; What did the מקשן originally think² when he asked that according to ר"י בר"י the basket should be a רה"ר, and we answered that it is lower than 10 טפחים

משנה מי' – for he obviously knew that our רה"ר is in a case where the object was placed below 10 טפחים

ר"י בר"י – regardless of any difficulty with ר"י בר"י that we say גוד אסיק to make the basket a טפחים 10, nevertheless we must say that the basket was below 10 טפחים

רה"ר is a טפחים 10 – for everything above 10 טפחים in a רה"ר is a מקום פטור

and no one will say that he is חייב, for there is no prohibition at all for transferring an object to a מקום פטור, so obviously the מקשן understood that the basket was below 10 טפחים

so why does the מקשן ask that according to ר"י בר"י the basket is a רה"ר, when the מקשן is well aware that the object was placed below 10 טפחים.

it is most elementary that רה"ר there is no טפחים 10 – **הא מילתא דפשיטא היא דלמטה מי' לא הוי רה"ר**

for we have learnt in a משנה, פרק הזורק – **דהא תנן לקמן בהזורק (לקמן דף צט,א)**

the surrounding wall of a pit, and a boulder – **חולית הבור והסלע**

ד' על טפחים 10 high and have an area of טפחים 10 – **שהם גבוהים י' ורחבים ד'** – **the דין is –**

whoever takes an object from on top of them and places it in a רה"ר, or whoever takes an object from the רה"ר and places it upon them he is חייב

if the size of the pit's wall or the boulder are less than טפחים 10 high or טפחים 4 wide, he is פטור for it is not a רה"ר

and it is therefore obvious that ר"י בר"י is talking only if the basket is טפחים 10 from the ground. Why then did the מקשן ask his question when the גמרא's answer מי' must have been obvious to the מקשן. מקשן gives no answer to this question.³

Summary

A רה"ר does not become a כרמלית; rather it remains in the confines of a רה"ר, as opposed to other objects that do become either a מקום or כרמלית in the רה"ר.

The assumption should be that an עקירה והנחה ברה"ר, must be מי' למטה, because למטה מי' is a מקום פטור.

² See 'Thinking it over' #2. שבת של מי, ולשון הזהב.

³ See 'Thinking it over' # 3. רשב"א.

Thinking it over

1. We quoted רש"י as saying לא גזור רבנן לבטולי מתורת כלים, which seems different from the way תוספות may have understood רש"י.⁴
2. There seems to be no connection between וקשה לר"י to what preceded it⁵.
3. Can we distinguish between a basket hovering in the רה"ר, and a post that is resting on the רה"ר, in regards to its status as a כרמלית?⁶

⁴ See Footnote # 1

⁵ See Footnote # 2

⁶ See Footnote # 3