

## ר"י יתר על כן אמר רבי יהודה – Moreover said

### Overview

תוספות and terms pertaining to this:

פי תקרה יורד וסותם – literally “The edge of the roof descends and seals”, meaning that in many instances, we consider that the edge of the roof extends downwards, and it creates a wall or מחיצה, even though in reality there is no wall there.

מבוי – a (side) street. In a מבוי שאינו מפולש, the area of the מבוי is delineated by three partitions, on three sides, which separate the מבוי from the חצירות, that are on the other sides of the partitions. Each חצר usually has a door or opening in this partition, by which the people of the חצר enter the מבוי, and subsequently go from the מבוי into the רה"ר, which is on the fourth and open side of the מבוי (similar to a cul-de-sac or a dead end street). According to most opinions, this מבוי שאינו מפולש is a דאורייתא רה"י, because it has three adjacent מחיצות. Nevertheless, since on the fourth side the מבוי is completely exposed to a רה"ר, the חכמים forbade one to carry in the מבוי, unless a לחי or a קורה is placed at the entrance to the מבוי, from the רה"ר, to clearly delineate the boundary between the מבוי and the רה"ר. In addition, in order to be able to carry in a מבוי, if there is more than one חצר opening into the מבוי, the various חצרות that open into the מבוי must make an עירוב, called מובאות, in which they combine some of their food for שבת, and place it in one of the חצרות.

מבוי המפולש – is an open ended מבוי on two parallel sides, where it is exposed to a רה"ר (similar to our streets).

עירוב (והצר) מבוי – literally mixing or pooling. This term - in regards to a מבוי (והצר) - refers, usually, to the pooling of food for שבת from the residents of the חצרות which open into the מבוי, to permit carrying in the מבוי (והצר). This is a requirement מדרבנן, that even in a valid רה"י, since there are different residents, who own separate domains, it is necessary to have them join together, otherwise it may be mistaken for a רה"ר.

צורת הפתח – literally “the shape of a door”, refers to one option of making a מחיצה, by placing two upright poles at a distance from each other, and placing a third pole, on top of them, which gives it the appearance of a doorway<sup>1</sup>.

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<sup>1</sup> According to שו"ע אדמה"ז when making, what is commonly called an עירוב (in camps etc.) by utilizing this idea of צורת הפתח, it is required that the distance between the two upright poles be no greater than ten אמות (about 15 feet).

A side post; beam. Either a לחי or a קורה is placed by the entrance to a מבוי to delineate the separation between the מבוי and the רה"ר. The consensus of opinions is that a לחי וקורה serve only as a demarcation point. There is a minority opinion that a לחי וקורה may serve as a מחיצה.

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**This is how this ברייתא reads in the עירובין פרק ז' דעירובין תוספתא:**

**whether it is a window that is in the wall between two courtyards,**

**or whether it is a window that is in the wall between two houses, etc.,**

**and similarly bridges and mausoleums and a covered רה"ר**, in all of the above the דין is that –

**one may carry even more than אמות ר"י**, **שבת. This is the opinion of ר"י**, who maintains that underneath any area which is covered (even a רה"ר), that area is considered a רה"י, and we are permitted to carry underneath that entire area even more than א"א.

**moreover said ר"י, etc.,** he then continues with the case in our גמרא of שני בתים וכו'.

**the meaning of the term פירוש יתר על כן בשני בתים משני צדי רשות הרבים 'moreover' refers to the case of two houses on two opposite sides of a רה"ר.** Why do we refer to this case as 'moreover'; in what way is it a חידוש, than the previous cases mentioned in the תוספתא explains:

**even though** here in the case of שני בתים, **we cannot apply the rule of "the edge of the roof descends and seals"**, because in the case of שני בתים there is no roof on the רה"ר, as opposed to the cases mentioned previously -

**like bridges and mausoleums and a covered רה"ר** that is mentioned in the רישא of the תוספתא, where the domain in question is covered, and therefore the principle of פי תקרה וכו' applies, and therefore you may carry there because since we say פי תקרה יורד וסותם it is as if there are actual walls extending downwards from the roof, so it is considered a רה"י. Here however by שני בתים there is no covering roof –

**nevertheless he may carry objects more than אפילו הכי נושא ונותן באמצע** and **place them down** in the street between the two houses. The reason for this is –

**because ר"י maintains that two partitions are sufficient to render to a domain the status of a מדאורייתא רה"י**, **פרק כל גגות** in גמרא עירובין **as we say in the עירובין פרק כל גגות (עירובין זח,א)**

asks:

**You may ask why does not the quote here the משנה of גמרא**, **פרק כל גגות**, **ואם תאמר אמאי לא מייתי הכא מתניתין דכל גגות (עירובין זח,א)**, **for we learnt there, in the משנה**, **furthermore says ר"י that it is permissible to make an עירוב<sup>2</sup>** **even in a מבו which is open at both ends** to a רה"ר. We see from here that even though the מבו has only two parallel walls, for the other two walls are completely open to the רה"ר; nevertheless it is still a רה"י. The question is; why do we need to prove from the משנה, that ר"י maintains that two walls form a מדאורייתא, when there is a clear משנה, in which ר"י seemingly says the same thing<sup>3</sup>.

answers:

**we can answer, that we can interpret the משנה**, that says you can make an המפלוש במבו, **that he is making the עירוב by (in addition to the מובאות (שיתופי מובאות) erecting a "door frame"**<sup>4</sup>, in one of the exposed sides, so there are now three partitions<sup>5</sup>; the two parallel side partitions of the מבו, and the third partition which is formed by the הפתח צורת הפתח **and he would maintain** according to this interpretation of the משנה, that **three partitions** form a **דאורייתא** רה"י, but we would not know that he maintains that even two partitions are a דאורייתא רה"י, therefore the גמרא prefers to quote the ברייתא, where there is no third partition<sup>6</sup>, and still ר"י maintains that it is a דאורייתא רה"י with only two partitions.

offers an alternate explanation to the previous question:

**another way of explaining why the גמרא chooses to quote the ברייתא instead of the משנה**, is because, **I may think that the משנה may be discussing a מבו which is exposed on both ends to the רה"ר**, **however the רה"ר itself does not pass through the מבו<sup>7</sup>**

<sup>2</sup> assumes that by this we refer to the act of pooling the שבת food, to accommodate this rabbinic requirement. It seemingly has nothing to do with adding מחיצות. See overview.

<sup>3</sup> It is always preferable to quote a משנה instead of a ברייתא, because the משניות were more universally known and accepted than the תוספות.

<sup>4</sup> Even though the term מערבין (usually) refers to the pooling of שבת food, not to the erecting of מחיצות, nevertheless, since a regular עירוב permits us to carry in the מבו, and erecting this צורת הפתח also enables us to carry in this מבו, we may use the term מערבין to include erecting a הפתח as well.

<sup>5</sup> The חכמים who argue with ר"י in that משנה, will maintain that a צורת הפתח is not a valid מחיצה if it is פרוץ. See לר"ר. עירובין ו,ב.

<sup>6</sup> For he is just placing a לחי וקורה at both ends, but not constructing a הפתח.

<sup>7</sup> Therefore that מבו המפולש may not have the status of a רה"ר, and מדאורייתא it is a מקום פטור, and the איסור would be only מדרבנן, therefore only there does ר"י maintain that two מחיצות with a לחי וקורה may remove this מדרבנן איסור, but not necessarily does it become a רה"י. We cannot therefore derive that our ברייתא excludes this case, for our ברייתא intends to exclude only another type of רה"י. See Appendix.

"יתר of ברייתא גמרא – להכי מייתי הברייתא דיתר על כן על כן"

רה"ר (גמורה) – that even if a דאפילו רשות הרבים (גמורה) עוברת בה through between these two houses

ד"א, in this area by just erecting a לחי וקורה – מטלטלין על ידי לחי וקורה

because ר"י maintains that two partitions are sufficient מדאורייתא to render to a domain (even a רה"ר) the status of a רה"י<sup>8</sup>

<sup>9</sup>, which is sixteen אמות wide רה"ר, how can we say that even if a רה"ר, passes between the houses, it can be made into a רה"י.

and even though we have learnt in the עירובין פרק of first עירובין

concerning the משנה there, which states that if the opening of the מפולש שאינו מבוני to the רה"ר is wider than ten אמות, he should decrease the width of the opening, until it is no more than ten אמות. ר"י disagrees with the קמא תנא there and maintains that even if the opening is more than ten אמות it is not necessary to decrease the size of the opening. Concerning this statement of ר"י –

it seems from the משמע דלכל היותר לא התיר רבי יהודה אלא עד י"ג אמה ושליש גמרא that even though ר"י allows the opening of the מבוני to be larger than ten אמות, nevertheless, the greatest width that ר"י permitted was only up to thirteen and a third<sup>10</sup> אמה, so how did תוספות say previously that the ברייתא teaches us that ר"י maintains that even a רה"ר, which by definition is a minimum of sixteen אמות wide, can be transformed into a רה"י when there are two partitions, when from the גמרא in עירובין we know that the opening of the מבוני cannot be greater than thirteen and a third אמה, for it to be a proper רה"י.

answers: תוספות

this stipulation that one cannot transform a מבוני into a proper רה"י – היינו מדרבנן – if the opening is greater than 13 1/3 אמות is only a rabbinic decree<sup>11</sup>

<sup>8</sup> The לחי וקורה are needed just to delineate the boundary between the רה"י and the רה"ר. See overview.

<sup>9</sup> See שבת דף צט,א that the width of the עגלות that carried the קרשים plus one אמה in between the עגלות took up sixteen אמות.

<sup>10</sup> See גמרא ו,ב (see our פסי ביראות) that the space between the ביראות (see our ו,ב) was limited to 13 1/3 אמות, which is the space needed for two teams of four oxen each, to pass through; the width of each ox being 1 2/3 אמה.

<sup>11</sup> This does not contradict what we are saying here that ר"י permits carrying in this רה"ר bounded by two houses even מדרבנן, because as תוספות explains in תימא וכי תימא that we are talking about a רה"ר which is sixteen אמות wide in its entire length, however when it passes between these two houses it narrows down to 13 1/3 אמות. Had there been no houses in this narrow section, it would have retained its status as a full רה"ר, regardless of its width, however since it is boarded by two partitions, the two houses, it is a רה"י מדרבנן, and with the לחי וקורה one is permitted to carry there even מדרבנן.

but even if the opening is sixteen wide we may carry more than א"ד, if there are two מחיצות ד"ה, because ר"י maintains that even two partitions are sufficient to make a רה"י, no matter what the width. for we must say דעל כרחק צריך לומר דרבי יהודה איירי ברשות הרבים גמורה רשות הרבים גמורה ר"י is discussing the case where it is a רשות הרבים גמורה in which many people traverse through it – שבוקעין שם רבים as is evident from we learnt in the first עירובין פרק of עירובין concerning the topic of how one can be מערב a רה"ר, and there<sup>12</sup> I explained this proof.

poses an additional question:

you may ask; since it states in the סיפא of this ד' רשויות וכו' of ברייתא – דמבואות המפולשין הוי רשות הרבים רה"ר are themselves considered a רה"ר we can quite rightly assume that the ר"י rejects the view of ר"י – דלידיה מבואות המפולשות לא הוו רשות הרבים רה"ר are not a רה"ר since there are the two partitions of the מבוי. The question then is; why is it necessary for the ברייתא to add the phrase רה"ר to exclude the opinion of ר"י, by merely stating that מבואות המפולשות are a רה"ר, even though they have two מחיצות, the view of ר"י is naturally excluded.

responds:

we can answer; that ר"י לומר דמסיפא לא הוה שמעינן לאפוקי מדברי יהודה, ברייתא, that מבואות המפולשות are a רה"ר, that would have not been sufficient to teach us that the ברייתא rejects the view of ר"י, that one is permitted to carry between these two houses, for it could be that even our ברייתא agrees to the ruling of ר"י – דהוא אמינא טעמא דרבי יהודה משום דקסבר ר"י permits carrying between these two house when a קורה are erected, is not because he maintains that two מחיצות form a רה"י, but rather, because he maintains that by placing a קורה in this רה"ר, it functions as a partition, making this area completely surrounded by walls, the two real walls of the houses and the additional 'walls' of the קורה, and therefore one is permitted to carry

<sup>12</sup> עירובין ו,ב תוד"ה וכו' תימא

there, and we do not know that our ברייתא rejects this view that מחיצה משום מקורה לחי, since our ברייתא, merely said that מבואות המפולשין without a מקורה לחי are a רה"ר, but perhaps our ברייתא would also agree to ר"י that you may carry there, because לחי מקורה משום מחיצה

**for there is someone who maintains this view that מחיצה משום מקורה לחי in the first of פרק עירובין (דף טו,א),** therefore I might have thought that ר"י and indeed the ברייתא also maintain this view

**therefore it was necessary for להכי איצטריך למיתני זו היא רשות היחיד גמורה** **to state** this additional phrase **"זו היא רה"י גמורה"**

**to exclude the ruling of ר"י**, and it is not permitted to carry between these two houses

**רה"י** – **because that area is not a רה"י**, דלא הוי רשות היחיד

**for a מקורה לחי is not considered a מחיצה** and the two actual מחיצות cannot render it a רה"י.

### Summary:

even by two exposed opposite sides. There is no need in such a case for any סימן such as a מקורה לחי to permit טלטול ד"א.

even when a רה"ר passes through in between these two מחיצות. By placing a מכאן ומכאן מקורה לחי one may be permitted to טלטל ד"א, provided that the width between the two מחיצות does not exceed 13 1/3 אמות. he may be מטלטל regardless of the width between these two מחיצות.

### Thinking it over

1. How can we be certain that ר"י maintains שתי מחיצות דאורייתא, perhaps he holds that מקורה משום מחיצה?

2. Does our ברייתא of רשויות וכו' ד, require מחיצות ג' or מחיצות ד' to create a רה"י?

3. Why are the relative strengths of the two תירוצים on first תוספות?

### Appendix

first question was; why does the גמרא quote the ברייתא of יתר על כן to prove that ר"י maintains שתי מחיצות דאורייתא, when the גמרא could have quoted the משנה of המפולש למבוי and that would have proved the same thing.

gives two answers, that seemingly say in essence that from the משנה, I would not know that ר"י maintains שתי מחיצות דאורייתא, because: a) in the

he erected a *צורת הפתח*, so there are *ג' מחיצות*, or b) the *מבוי המפולש* of the *משנה* is not really a *רה"ר*, and therefore it does not prove that *ב' מחיצות* *רה"ר* even in a *גמורה*.

It seems that the *תוספות* maintains that the *גמרא* is interested in proving that *ר"י* holds *ב' מחיצות דאורייתא*, and therefore the *משנה* is not sufficient.

However the plain reading of the *גמרא* indicates that we are interested, not so much in the view of *ר"י*, but rather, what does our *ברייתא* wish to exclude by saying *זהו היא רה"ר גמורה*. Therefore if the *גמרא* could have quoted the *משנה*, and said that *זהו היא רה"ר גמורה* comes to exclude the *דין* of *ר"י* in the *משנה*, of *דין*, and our *ברייתא* disagrees with that *דין*, meaning that our *ברייתא* disagrees with that *דין*, and our *ברייתא* maintains that *אין מערבין למבוי המפולש*, so **certainly** the *ברייתא* will disagree with the idea that *ב' מחיצות דאורייתא*, for if *ב' מחיצות דאורייתא*, then surely we can be *מערב למבוי המפולש*. The original question seems unanswered, why did not the *גמרא* quote the *משנה*.

Pertaining to the first answer of *תוספות*, that the *משנה* may be discussing a *צורת הפתח*, so there are *ג' מחיצות*, we can perhaps understand that the *גמרא* cannot say that our *ברייתא* disagrees with the *משנה*, because most opinions are that *ג' מחיצות דאורייתא*. Therefore the *ברייתא* may agree with the *משנה*.<sup>13</sup>

Concerning the second answer of *תוספות* however, that the *מבוי* of the *משנה* is not a *רה"ר*, is not sufficient to explain why we cannot say that our *ברייתא* comes to exclude that such a *מבוי* cannot be made into a *רה"ר* with two *מחיצות*, and **certainly** in the case of *יתר על כן* where it is a *גמורה*, two *מחיצות* cannot render it a *רה"ר*.

One possible explanation has been offered in footnote # 7.<sup>14</sup>

Another approach may be that the *גמרא* is looking for a clear *שיטה* concerning a *רה"ר*, which our *ברייתא* will exclude. Since the *משנה* is not that clear, as evidenced by the various *אקימתות* of *תוספות וכו'*, therefore the *גמרא* chose the option of *יתר על כן*, where *ר"י* maintains clearly *ב' מחיצות דאורייתא*.<sup>15</sup>

Another difficulty:

*תוספות* concludes that we know that the *תנא* of our *ברייתא* maintains that *שתי מבואות המפולשין* are a *רה"ר*. The *מיעוט* of *זהו היא רה"ר גמורה* is to tell us that *לחי וקורה אינו חשוב מחיצה*, because we may have thought that the reason of *ר"י* is because he maintains *לחי וקורה משום מחיצה*. This seems to go against the entire thrust of *תוספות*, which he said in

<sup>13</sup> Even if it would disagree with *ר"י*, but it would still be a *רה"ר*, they would argue perhaps if *מערבין* or not.

<sup>14</sup> The difficulty with this explanation is that the consensus (besides the *רמב"ם*) is that an *עירוב* is *מתיר* only in a *רה"ר דאורייתא*, ועל שיעורי הרב גרליצקי שליט"א.

<sup>15</sup> See however end of *תוספות*, that it may be *משום מחיצה* and not *ב' מחיצות דאורייתא*.

the introduction, that since ר"י says יתר על כן, it means to say conclusively that שתי מחיצות דאורייתא<sup>16</sup>.

Perhaps we can say as follows:

Our גמרא was certain that since ר"י says יתר על כן he maintains ב' בתים וכו' of דין, which our דברייתא obviously excludes since he maintains that מבואות המפולשין are a רה"ר. However the דברייתא felt it important to state לחי וקורה משום מחיצה, זו היא רה"י, in case we would mistakenly think that מחיצה, therefore he comes to exclude even that remote possibility.

This may also explain why the גמרא does not exclude the משנה, and consequently certainly also the ב' בתים וכו' of דין, as was asked above, because if we would say that זו היא רה"י comes to exclude the משנה, some may think that our דברייתא may still agree with ר"י in the case of ב' בתים, since they may both hold מחיצה משום מחיצה. Therefore our גמרא chose to exclude explicitly the case of ב' בתים<sup>17</sup>.

<sup>16</sup> A possible explanation may be; when תוספות says לאפוקי מדר"י or משום מחיצה, דה"א דטעמא דר"י וכו' לחי וקורה משום מחיצה, תוספות does not refer to the person of ר"י but to (the תנא דברייתא in) the case of ר"י, namely ב' בתים וכו'. שתי בתים וכו' ר"י, namely ב' בתים וכו'. תוספות may be saying that if we would not have excluded this case specifically, we may have thought that תנא דברייתא (not ר"י) would hold that it is a רה"ר because מחיצה משום מחיצה. לוחק הכי גדול. לחי וקורה משום מחיצה.

<sup>17</sup> The difficulty with this interpretation is more than obvious. In addition תוספות should have asked the second question first. [This in its own right may also be a valid question. Since the first question of תוספות is only as to why choose the ברייתא over the משנה, while the second question demands why do we need the סיפא דברייתא altogether, since we know it from the ברייתא.]