

ואם חקק בו ד' על ד' – And if one carves out in it an area of four טפחים by four טפחים

Overview

Concerning an area which is surrounded by מחיצות less than ten טפחים high, and in a section of this area, a hole, ד' על ד', is carved deep enough that now there is ten טפחים from the bottom of the hole to the top of the מחיצות, we find a difference between הלכות סוכה and הלכות שבת.

Pertaining to הלכות סוכה in the above case it will be a valid סוכה, providing that the wall of the חקק and the outer wall of the סוכה are less than three טפחים from each other. If the distance between them is three טפחים or more however, it is a פסולה סוכה, since we cannot combine the two מחיצות.

Concerning הלכות שבת however, this enclosed area is always a רה"י, regardless of the distance between the two מחיצות.

הלכות will first ask and then explain the difference between these two תוספות.

תוספות asks:

גמרא – And the ריב"א has a difficulty with this מאי שנא מסוכה; why is שבת different from a סוכה -

דאינה גבוהה י' – which is not high ten טפחים, which renders it unfit¹ to be a סוכה כשרה

גמרא says in the first – דאמר בפרק קמא דסוכה (דף ד,א) מסכת סוכה פרק

he carved out in the floor of the סוכה, a hole deep enough **to complete** the total height of the סוכה **to be ten** טפחים high, then the דין is as follows:

if the distance from the outer edge of the carved out area to the original wall is three טפחים or more, the סוכה is פסולה

if the abovementioned distance is less than three² טפחים **the סוכה is כשרה**

however here by שבת, carving out is sufficient to render the interior of the house a רה"י

even if the carved out area is very distant from the external wall, for the גמרא here makes no stipulation as to the distance from the מקום החקיקה to the external wall. Why is there this difference between שבת and סוכה?

¹ We derive from פסוקים that סכך must be at least ten טפחים from the ground.

² In many instances, when two objects that are within 3 טפחים of each other, we apply the למשה מסיני of הלכה, meaning that they are joined as one. Here too, since both מחיצות are within 3 טפחים of each other we say לבד, that they are joined together as one whole מחיצה.

answers: תוספות

And the ריב"א answered that there by סוכה it is different, (than here by שבת) –

for we require that the הסוכה be sufficiently close to the סכך

because, there in סוכה we derive, the necessity and requirements of מחיצות – (דף ו,ב) מחיצות

from the three times that the תורה mentions the word סכך (that a סוכה requires three walls)³

As the גמרא says there, that if he placed the סכך at a distance of three טפחים or more from the walls, the סוכה is פסולה

and therefore we require that the distance from the סוכה to the שפת החקק be less than three טפחים

since it is necessary to combine the height of the חקק with the מחיצות

in order that the walls (of the סוכה) should be close to the סכך that is directly above the מקום החקק⁴, and we cannot combine these two walls (the outer walls of the סוכה and the embankment of the חקק) if they are at a distance of three טפחים or more from each other, only if they are less than three טפחים apart⁵.

By שבת however there is no requirement that the מחיצות be near “anything”, therefore the חקק and the כותל are מצטרף for a מחיצה, even if they are apart from each other a distance of three טפחים or more.

questions the validity of this answer: תוספות

and even though the rule of דופן עקומה מכשרת עד ד' אמות דופן, ואף על גב דדופן עקומה מכשרת עד ד' אמות עקומה⁶, renders a סוכה כשרה up to a distance of four אמות; why is it then פסולה

³ Since the requirement of three walls is derived from the words "סוכות", which refer mainly to the סכך, therefore there is the requirement that the מחיצות be סמוכות לסכך.

⁴ Since that is the only כשר סכך, for it is the only סכך that is ten טפחים above the ground beneath it. The 'outside' סכך does not have טפחים beneath it.

⁵ It would seem that if the distance is less than 3 טפחים, then by utilizing the דין of לבוד we drag – so to speak – the outer walls towards the חקק, and we have מחיצות that extend from the bottom of the חקק directly to the סכך, so that the מחיצות are סמוכות לסכך. If however they are more than 3 טפחים apart and we cannot make use of לבוד, then the outer wall cannot be 'dragged' inwards, and it is therefore adjacent to סכך פסול that is less than 10 טפחים from the ground, and it is not סכך כשר.

⁶ The rule of דופן עקומה which is a הלכה למשה מסיני states; that if there is a proper מחיצה, however there is סכך סמוך פסול adjacent to the מחיצה, then the דין is as follows: if סכך פסול is less than ד' אמות wide, which means that the distance from the סכך כשר to the מחיצה is less than ד' אמות, the סוכה is כשרה, for we say דופן עקומה, that the wall bends and curves – so to speak – and it is extended via סכך פסול to reach the סכך כשר, so that the מחיצה and the סכך כשר are – as if – adjacent to one another. If however סכך פסול is ד' אמות or more, then it is a סוכה פסולה because we do not say דופן עקומה, therefore the מחיצה is not (כשר) סמוכה לסכך.

by a distance of merely three טפחים? Even though the outside wall is adjacent to סכך פסול, nevertheless let us utilize the concept of דופן עקומה, and since it is less than ד' אמות from the outside wall to כשר, it should be a סוכה כשרה.

replies: תוספות

The answers this question⁷ and makes the following distinction:

The rule of דופן עקומה applies, only in the case where there exist already proper מחיצות מעלייתא

however in a case where it is necessary to create a מחיצה⁸, then –

if the distance is less than three טפחים, then we can combine the embankment of the חקק with the external walls סכך, which renders the מחיצות to be sufficiently close to the סכך סמוך לסכך, more than this amount we cannot combine⁹ the גידוד and the דופן עקומה [and therefore we do not say עקומה] and it is a סוכה פסולה.

Summary

There is a distinction between the מחיצות of שבת and the מחיצות of סוכה. The מחיצות of a סוכה are required to be סמוך לסכך, otherwise it is a סוכה פסולה. Therefore if the distance from the חקק to the outer wall is less than three טפחים, then by utilizing לבוד, the outer wall is joined to the החקק and forms one straight מחיצה which is שער"ג החקק. If however the distance is three טפחים or more, then the outer wall remains adjacent to the סכך, and it is a סוכה פסולה.

The מחיצות of שבת on the other hand, serve to separate the inner רה"י from the outside 'world'. The area of the חקק is bounded by מחיצות עשרה, through combining the heights of the two מחיצות. The distance between them is irrelevant, since the מקום החקק is separated from the outside by עשרה מחיצות. תוספות adds that even the concept of דופן עקומה is not applicable to our situation, because we utilize the concept of דופן עקומה only when there is a valid independent מחיצה. This outside wall is not גבוה י' by itself, therefore we cannot accord it the status of a דופן עקומה.

The סכך פסול is only if the wall is adjacent to סכך. If there is an open space between the wall and the כשר then it must be less than 3 טפחים of airspace otherwise it is a סוכה פסולה.

⁷ In connection as to why the גידוד must be within 3 טפחים of the outside wall, while by a ('regular') דופן עקומה it could be up to ד' אמות distance from the כשר. The גמרא there does not assume explicitly, that it would be a שבת לענין מחיצה as תוספות assumes here.

⁸ As in our case, where the wall for which we want to say דופן עקומה is, of its own accord, not a proper מחיצה at all, since it is מ' טפחים.

⁹ By saying לבוד, or alternately; by saying דופן עקומה.

Thinking it over

1. Which concept(s) were we made aware of in the original תירוץ of the קשיא, which was not apparent to us in his ריב"א?
2. Do we say לבד to extend the גידוד החקק to the outside walls, or do we say לבד to join the outside wall to the גידוד החקק? Why!?
3. In the final analysis, even if there is more than three טפחים between the חקק and the outside wall, the area is nevertheless considered a רה"י, which means that there is a מחיצה י' , so why then do we not say דופן עקומה?
4. Can we say that לבד is more effective than דופן עקומה?