

פטור wide he is טפחים six – רחבה ששה פטור

Overview

A רה"י is an area of דע"ד which is surrounded by מחיצות י'. The question is whether the area of דע"ד is within the מחיצות, i.e. there must be a מקום דע"ד besides the מחיצות¹, or will it be considered a רה"י even if it is דע"ד including the מחיצות². The same discussion applies to the height of the מחיצות, do we require מחיצות that rise ten טפחים, in such a manner that if one is inside this רשות he can measure a מחיצה of ten טפחים, or it is not necessary, and as long as the מחיצה rises ten טפחים above the ground, even if it is partially 'filled' it is still considered a רה"י.

We know that in order to inscribe a square דע"ד within a circle it is necessary for the diameter (width) of the circle [which is also the diagonal of the square], to be five and two thirds, according to the formula that for every unit measure on a side of a square the diagonal of that square is two fifths greater; therefore for a side of four טפחים, the diagonal [and diameter] will be five and three fifths טפחים $\{4 \times 2/5 = 8/5 = 1 \frac{3}{5}, +4 = 5 \frac{3}{5}\}$.

The ר"ה explained that the dimension of six טפחים is precise³ – פירש רבינו חננאל דדוקא נקט ששה

because the walls of the hive take up two fifths of a טפה, the actual thickness of the wall of the כוורת is a fifth of a טפה, but when we measure the hollow (or internal) area of the כוורת, we need to subtract from the entire diameter of the כוורת the thickness of the two walls on both sides, which leaves us with a diameter of inner space of 5 and 3/5 טפחים.

and it is necessary for there to be airspace inside the כוורת that measures ד' טפחים מרובעים, which requires a circle that has a diameter (width) of five and three fifths טפחים. In order for the כוורת to be considered a רה"י it requires to have an airspace of דע"ד טפחים, without the walls. Therefore the entire כוורת including the walls must be not less than six טפחים.

asks: תוספות

even though concerning the height of the כוורת **there is no airspace that is ten טפחים high⁴ since we include the**

¹ Because we require a מקום חשוב for השתמשות and less that דע"ד is not a מקום חשוב.

² It seems that even according to this view, only the external part will be considered a רה"י, however within the walls, since there is no area of דע"ד, that will not be considered a רה"י. Obviously, all this is where the רשות is open on top, however if it is covered like a house or an עמוד everyone agrees that the top is a רה"י regardless of what the inside dimensions are.

³ As opposed to רש"י who states: "ואבוי לא דק וכו'": ד"ה גבוה י'.

⁴ For the height of the כוורת is טפחים י' including the thickness of the base.

thickness of **the base** of the כוורת, so why cannot we include the walls of the כוורת, in its width, and why do we require an area of דע"ד inner airspace?

תוספות responds:

concerning height we do combine the base with the airspace,

– because the הלכה is that a hill which is **five** טפחים high **and a partition** (upon the hill) which is **five** טפחים high, **combine** for a height of ten טפחים to consider the area atop the hill a רה"י, even though there is no height of ten טפחים of confined airspace within the partitions, therefore here also by the כוונה as far as the height is concerned we do not require airspace of ten טפחים, but rather a total combined height of ten טפחים is sufficient to render the כוונה a רה"י. We seemingly do not find such a ruling concerning the area of a רה"י. Therefore we require דע"ד excluding the מחיצות.

תוספות asks:

even though רש"י interprets the statement: גידוד ה' ומחיצה ה' to mean

high טפחים five –that he made a partition five טפחים מחיצה ה' על בור עמוק ה' on top of a pit which was five טפחים deep, so according to רש"י in the case of ה' גידוד ה' – so how do we know that the thickness of the base of the כוורת ה' and, ומחיצה ה' טפחים י' אור – so how do we know that the thickness of the base of the כוורת ה' can be מצטרף to the airspace of the כוורת ה' for a height of ten טפחים?

תוספות responds:

אין פירושו נראה – the interpretation of רש"י does not seem correct

משנה, that **דהא תנן** (שם פ"י דף צ"ט, ב ולקמן דף צט, א) **בור וחוליתו מצטרפין a pit and its (surrounding) mound combine**⁶ to provide the necessary height (and width) for a רה"י. We see therefore that the pit and its mound that extends above the pit combine for ten טפחים

– and if this is so (that there is a clear גידוד ה' ומחיצה ה' אין how can רב חסדא argue to say that (מצטרפין משנה that גידוד ה' ומחיצה ה' is the same as בור וחוליתו (i.e. a partition on top of a pit), so how can רב חסדא maintain that גידוד ה' – ומחיצה ה' אין מצטרפין

בור וחוליתו מצטרפין – **משנה** **since there is** – כיון דמתניתין היא, therefore we must conclude that the interpretation of רש"י in 'ומחיצה ה' is incorrect,

תוספות brings another proof to reject רש"י's interpretation:

we say clearly – כל גגות – and in – ובכל גגות (עירובין צגב) אמרינן בהדיא

⁵ In the עירובין there is a מחלוקת between רב חסדא and מרימר, in this דין. The גמרא concludes like מרימר that גידוד ה' ומחיצה ה' מצטרפין.

⁶ The statement *בור וחולייתו מצטרפין לעשרה משנה* is actually the statement of *רבי יוחנן* and his interpretation of the *משנה* in *חולית הבור וכו'*, עיי"ש *שבת* in *משנה*. The *בור ברה"ר וחולייתו גבוה ל'*, עיי"ש which actually states *עירובין*.

⁷ See footnote # 5

that agrees רב חסדא – דמודה רב חסדא בתחתונה הואיל ורואה פני י' (the case there being, when there were two adjacent courtyards in which the level of one was higher than the other, and between the courtyards there was a wall less than ten טפחים high from the ground of the upper courtyard, but from the ground of the lower courtyard to the top of the wall it was ten טפחים high), concerning **the lower** courtyard that it is a (separate⁸) (היחיד), **since** the lower courtyard 'sees' the face of a wall that is ten טפחים. This again contradicts רש"י's interpretation of according to רב חסדא, since the lower courtyard is equivalent to the גידוד and the wall is equivalent to מחיצה and רב חסדא מודה that מצטרפין גידוד **therefore – אלא צריך לפרש דגידוד ה' ומחיצה ה' הינו שעשה מחיצה ה' על תל גבוה ה' we must interpret 'ומחיצה ה' גידוד ה' to mean that he placed a partition of five טפחים upon a hill⁹ of five טפחים**, and the הלכה is (not like רב חסדא, but) that they are מצטרף to form a רה"י even though there is no אויר י' therefore we can say here by the כוורת that the base can combine with the airspace to make a רה"י even though there is no אויר י'.

In Summation: The ר"ה maintains that for the horizontal area of the רה"י we require airspace of טפחים ד' על ד' (and therefore the כוורת must be at least ששה רחבה), however, concerning the vertical height of a רה"י, there is not required אויר י'¹⁰, and we can have a רה"י even if there is less than אויר י' as long as we can be מצרף the thickness of the כוורת.

asks: תוספות

the interpretation of the ר"ה – ואין נראה פירוש רבינו חננאל (namely that a horizontal airspace of דע"ד is required for a רה"י) **does not seem** to be correct

for the thickness of the pit's mound – דהא עובי חוליות הבור

also combines with the hole of the pit to provide the necessary width of טפחים four by טפחים four to make the (top of the) mound surrounding the pit a רה"י¹¹. Even though the mound is not דע"ד, nevertheless we combine the width of the mound with the width of the pit to acquire an area of דע"ד. How can we consider the hole of the pit as a מקום מסויים, since it is hollow and has no use at this point, תוספות explains by saying:

since it is possible to place an object over the hole (and the mound) and then it can be usable – משום דחזי למינה עליה מידי ולהשתמש

⁸ The ברייתא there is actually discussing the עירובי חצירות דינים, that the lower courtyard is separate and distinct from the upper courtyard, and they cannot combine their עירובי חצירות.

⁹ Now רב חסדא does not contradict the משנה of בור וחוליתו, which discusses a partition above a pit, while רב חסדא is discussing a partition above a hill.

¹⁰ It should be noted that the base can combine with the walls to make the inside of the כוורת רה"י, only if the base is on the bottom (and there is דע"ד without the מחיצות. See footnote # 2). If the base were on top and the walls are extending downwards then it would be a רה"י only on top of the כוורת, but not inside the walls of the כוורת, as we learnt on וכו' בית שאין תוכו י' וכו'.

¹¹ See מסיע ד"ה שבת צטא, תוס' שבת צטא, that this is how תוס' interprets the משנה of חייב גבן חייב, that we combine the airspace of the pit with the thickness of the surrounding mound to achieve a width of דע"ד טפחים.

פרק חלון – **as this** (concept of placing an object over a non-usable space to convert it to a usable space) **was spoken of in** פרק חלון

concerning a case where **he filled the entire** top of a עמוד **with pegs**, rendering it unfit for use, nevertheless it retains its status as a רה"י, since he can place a board over the pegs and make use of the area. The same rule will apply to the well and its mound. The question on ר"ח is that here too, we can place a board over the opening of the כוורת and we will have a usable space of דע"ד, so it should be considered a רה"י even if there is no airspace of דע"ד for there is usable space of דע"ד if we combine the walls of the כוורת, as in the case of בור וחוליתו.

concludes:

however we must say that the fact that he mentions here that it was six טפחים wide and not five and three fifths is because - **he was not being exact, as רש"י interprets it.** We do not require an inner space of דע"ד to render the כוורת, as a whole, into a רה"י, since we can place a board atop the walls of the כוורת, we will have usable space of דע"ד.

Summary

The view of the ר"ח is that in order to render the כוורת a רה"י, there must be an inner area of דע"ד. Concerning the height there is no need for אור, since we maintain מצטרפין ה' ומחיצה ה' meaning that a partition atop a hill can combine with the hill to create a מחיצה י'.

refutes רש"י's interpretation that גידוד ה' ומחיצה ה' refers to a partition atop a pit, because there everyone agrees that מצטרפין.

disagrees with the ר"ח, and maintains that even concerning the width of a כוורת, we can combine the walls of the כוורת with its airspace to accord the כוורת as a whole, the status of a רה"י. We are not concerned that there is no מקום חשוב להשתמשות, because we may place a board over the entire כוורת (walls and inner area) which will give us a מקום חשוב דע"ד להשתמשות.

Thinking it over

1. What would be the logic according to the ר"ח that the horizontal area must be דע"ד excluding the walls, while the vertical area may be טפחים י' including the 'base'?

2. Can we say that the ר"ח agrees with תוס' that the כוורת as a whole may be considered a רה"י even if there is no inner area of דע"ד, nevertheless in such a case פטור אביי would not say?¹²

¹² See שפת אמת