

כפאה על פיה – If he inverted the כוורת to land on its opening

Overview

maintains that the כפאה על פיה וכו' of דינים follows the same pattern as the previous דינים of אביי, namely that the חיוב ופטור depends if the כוורת is deemed a רה"י when it lands.

The question then arises, why שבעה ומשהו is deemed a רה"י, and שבעה ומשהו is not deemed a רה"י; seemingly in both cases the דין of לבוד should be able to extend the מחיצות to the necessary ten טפחים required to consider it a רה"י.

The ריב"א maintains, that this statement: נראה לריב"א דארחב ששה קאי **is referring** to the case where the כוורת was six טפחים wide (so there is the necessary area to form a רה"י, nevertheless -)

even when the height of the כוורת **is at most a bit more than seven טפחים**, **he is still חייב**, because it is still considered as if it landed in a רה"ר (as opposed to where the כוורת was שבעה ומחצה [see following תוס']).

For when the partitions of the כוורת, come within three טפחים from the ground

the מחיצות of the כוורת are not ten טפחים high (even with adding a bit less than three טפחים on account of לבוד), and therefore it is not a רה"י, as in the case of שבעה ומחצה. Why is this so? If the מחיצות הכוורת are שבעה ומשהו, and if as soon as it is a שלש תוך משהו we say לבוד, then it seems that there is a height of ten טפחים; seven of the כוורת and three on account of לבוד, so why is he חייב; it should be considered as if it landed in a רה"י¹ explains:

for the thickness of the base (in this case of the inverted כוורת – the top) **cannot be combined** with the walls of the כוורת to provide us with the necessary ten טפחים

for we require a מחיצה which 'sees' the inner airspace of the utensil² (i.e. the כוורת)

that this aforementioned מחיצה be ten טפחים high, and since the שוליים are by definition not הכלי, רואה את אויר הכלי, therefore they are not part of the מחיצות. The total height of the מחיצות which are רואה את אויר הכלי are therefore less than seven טפחים, for we subtract the height (thickness) of the שוליים, hence even after adding the three טפחים of לבוד, we still do not have ten טפחים to consider the כוורת as a רה"י.

asks;

¹ See the next שבעה ומחצה תוס' ד"ה.

² This means that only that part of the מחיצה, which encircles the inner 'airspace' of the כוורת, is deemed a מחיצה. The מחיצה which is part of the עובי שוליים, however, encircle the material of the שוליים and not the inner 'airspace' of the כוורת.

and even though where the כוורת itself is exactly ten טפחים high -

we do combine the base with the מצטרפין השוליים להיות על גבו רשות היחיד – כוורת, that since the כוורת is ten טפחים high if one places an object on the top of the inverted כוורת it will be deemed as if he placed it in a רה"י. We know this to be true from what we previously learnt –

as was previously said³: A house, which inside it is not ten טפחים high, etc, but combined with the thickness of the roof there is a height of ten טפחים from the roof to the ground, the דין is that on the roof, it is a valid רה"י, and similarly here on the inverted כוורת, if it were ten טפחים high, the top of the כוורת would be a רה"י, which means that we do combine the thickness of the roof or the base with the מחיצות, to provide the necessary ten טפחים,

and since the top of the כוורת is a רה"י, one who throws this כוורת from a רה"י is פטור⁴, then why in the case of שבעה, do we not consider the עובי השוליים as part of the מחיצות? What difference is there if the ten טפחים are from the כוורת itself, or if the ten טפחים are a combination of שבעה ומשהו from the כוורת and שלש from תורת לבוד? Why in one case do we count the עובי השוליים and not in the other?

answers:

nevertheless the case of שבעה – מכל מקום כיון דאין גבוה י' אלא מחמת לבוד is different, **since the כוורת by itself is not ten טפחים high,** it can be ten טפחים high, **only on account of לבוד**

we cannot combine this airspace of less than three טפחים to complete the required ten טפחים, according to the guidelines of לבוד

unless the total height of the (including the three טפחים of לבוד) will be ten טפחים high besides the base

for we do not apply the rule of לבוד unless there are proper מחיצות of ten טפחים total that are רואה פני האויר.

explains רש"י (in ד"ה אבל גבוה, עיי"ש) – **כדפירש בקונטרס**

as a proof that this is so; for you know that in a righted כוורת where the base is on the bottom, we do not apply the rule of לבוד, i.e. that even if it was more than seven (and a half) טפחים high he will still be פטור; we do not combine the necessary additional three טפחים on account of לבוד (as in the case of an inverted כוורת), because since the base is on the bottom there are no discernible מחיצות as the כוורת is coming to land within the three טפחים (the 'ground' so to speak, 'sees' only שוליים approaching, but no מחיצות), so we cannot say לבוד, similarly here since when it reaches within the three טפחים, we do not 'see' (peering from the

³ דף זב, "אמר רב גידל וכו'"

⁴ As the גמרא previously taught that כוורת is פטור, and as (ד"ה רחבה הב') תוס' explained because it is considered as if it landed in a רה"י.

ground up into the מחיצות (כוורת) of ten טפחים, because the מחיצות of the עובי השוליים are not encircling 'airspace' and cannot be 'seen', therefore we do not say לבוד

Summary

In order to extend מחיצות that are less than ten טפחים to be considered as if they are ten טפחים high, through לבוד תורת, it is required that there be valid מחיצות שבעה ומשהו that are רואה פני האויר, otherwise we do not say לבוד. Therefore the שוליים of a כלי cannot be part of the שבעה ומשהו required for תורת לבוד.

Thinking it over

1. How is it that תוספות maintains that if there are no מחיצות עשרה we do not say 'מג' from פחות מג', when there are דינים, that when an object is מג' from the ground we consider it as if it is on the ground, even though there are no מחיצות (at all)?⁵
2. How can we differentiate (as opposed to תוספות proof) concerning לבוד between a כוורת that is landing on its שוליים, to an inverted כוורת that is שבעה ומשהו?⁶
3. Is תוספות saying that since we do not consider the עובי השוליים, therefore we do not have 'מחיצות י', or is תוספות saying that since we do not consider עובי השוליים then we do not say לבוד and we have מחיצות less than שבעה? And למאי נפקא מינה?

⁵ See שבת של מי בסוף ד"ה זה.

⁶ See תוס' הרא"ש.