

**שבעה<sup>1</sup> ומחצה פטור** – if the height of the inverted כוורת is **seven and a half** טפחים **he is פטור**

### Overview

'תוס' is continuing his explanation that the הלכה of פיה על פיה is referring to a כפאה which is רחב ששה so that it can have the status of a רה"י as it is landing. What needs clarification; since the כוורת will ultimately land on the ground, and then it will not be a רה"י, but rather it will be resting in the רה"ר, so why is he not חייב. It seems that he should be חייב for throwing the כוורת from a רה"י to a רה"ר.

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**For when the walls of the כוורת come within three** טפחים from the ground

**– יש שם מחיצות עשרה לבד השולים** – **there are מחיצות** that are **ten** טפחים high, **excluding the thickness of the base<sup>2</sup>** (in this inverted כוורת the 'base' is on top). Once this inverted כוורת is within three טפחים of the ground we apply the rule of לבד, and even if the שוליים of the כוורת is a fifth (or so<sup>3</sup>) of a טפה thick<sup>4</sup>, there is still more than seven טפחים of proper מחיצות<sup>5</sup> in the walls of the כוורת to combine with the three טפחים of תורת לבד to provide a height of ten טפחים.

**– והרי הוא רשות היחיד** – **and the כוורת is then considered a רה"י**, for it has מחיצות and it is רחבה ששה, which gives it the required area of דע"ד.

'תוס' now deals with the question why do we not consider that it travels from the רה"י to the רה"ר as it descends -

**– וחשיב כנה באותה שעה** – **and the כוורת is deemed to be (completely) at rest (already) at that moment.** When it is in the process of landing and it reached to within three טפחים from the ground, we consider it to be completely at rest<sup>6</sup>, and its subsequent descent until it finally lands, is of no significance.

**– ושוב אינו מתחייב** – **and subsequently he will not be חייב**

**– אף על גב דלאחר מכן נופל לארץ** – **even though that immediately after it reached to within three טפחים it will continue its descent and will fall to the ground**

**– ובטל ממנו רשות היחיד** – **and it will lose its status as a רה"י**, for once it reaches the ground it is only seven and a half טפחים high

<sup>1</sup> The תוס' ד"ה כפאה and the מהר"ם see this תוספות as a continuation of the previous כפאה and not a separate תוס'.

<sup>2</sup> Which we cannot include to be part of these ten טפחים, as per the previous תוס'.

<sup>3</sup> The base of the כוורת might be thicker than the fifth of a טפה, that the ר"ח בתוד"ה רחבה (הא') allowed for the walls.

<sup>4</sup> See תוס' ד"ה רחבה (הא').

<sup>5</sup> That are פני האויר. See previous כפאה.

<sup>6</sup> Because פחות מג' טפחים is considered סמיכתא (it is part of the [thickness of the] ground).

**רה"ר – and it is considered resting in a רה"ר**, nevertheless<sup>7</sup> he is פטור, since that at the moment that it came within three טפחים of the ground it is considered as if it rested on the ground, and at that moment it was a רה"י. The fact that it continues to fall, only affects its רשות status that it changes from a רה"י to a רה"ר, but it does not affect its 'מונה' status. It was מונה from the time it came within three טפחים and onwards up to and including the time that it came to an actual rest<sup>8</sup>.

כפאה על פיה is now conclude what he asserted in כפאה ד"ה that the statement of רחב ששה<sup>9</sup> that is referring to a כוורת that is

**רחב ו' – however if the כוורת was not רחב ו' and therefore did not have the area of דע"ד required for a רה"י**

**he would be חייב ז' ומחצה** – then even if the כוורת was **חייב ז' ומחצה** – **for we do not apply the דין of לבוד** to extend the מחיצות of the כוורת an additional three טפחים<sup>10</sup>, **unless there are valid מחיצות**<sup>11</sup>

**and there cannot be valid מחיצות לא הוי אלא כשיש שם רחב ד'** unless there is an airspace area between the מחיצות which is **wide** טפחים דע"ד **however if there is no airspace wide** – **אבל כשאינו רחב ד'**

**it is like any other objects**<sup>12</sup>, that have no valid מחיצות

**and we do not say לבוד** by these objects, that have no valid מחיצות.

### Summary

When the inverted כוורת which is ששה ורחב ומחצה שבעה descends to within three טפחים from the ground, two rules apply to it; 1) תורת לבוד to extend the walls and height of the כוורת another three טפחים to accord it the status of a רה"י [since the מחיצות encompass an area of טפחים דע"ד and there will be י' גבוה], and 2) It is considered as if it came to a complete landing and is considered to be at rest on the ground; any subsequent descent is of no consequence to the concept of הנחה or הוצאה..מרשות לרשות.

<sup>7</sup> Even though it appears to be traveling from a רה"י (when it descended to within three טפחים from the ground) to a רה"ר (once it landed on the ground proper).

<sup>8</sup> It may be compared as if it landed in a רה"י, and then the walls (of the רה"י) crumpled to less than ten טפחים.

<sup>9</sup> As opposed to רחב ו' קאי who maintains that רש"י בד"ה כפאה.

<sup>10</sup> So we should consider as if (the top of) the כוורת landed in a פטור as רש"י explains our גמרא.

<sup>11</sup> See previous 'תוס'.

<sup>12</sup> 'תוס' is broadening the concept mentioned in the previous 'תוס' that we do not say לבוד unless there are מחיצות as far as the height is concerned. Here 'תוס' adds that the מחיצות must also encompass an area of דע"ד טפחים in order to say לבוד.

Thinking it over

1. What two דינים apply once an object is within three טפחים from the ground.
2. Explain the difference between these two דינים and illustrate where we apply only one and not the other.
3. What are the two restrictions concerning לבויד that we learn from these תוס'?
4. How may we argue that even if we accept one restriction (#3), we may not accept the other?