

תנא בין שהבור למעלה ואילן למטה כולי -

It was taught; whether the pit was above and the tree below, etc.

Overview

The משנה taught that one must distance his tree twenty-five אמות from a pit, and if it is a חרוב or a שקמה tree he must distance fifty אמות, whether it is above or from the side. The גמרא cites a ברייתא that this distancing must take place whether the pit is lower and the tree is higher or whether the pit is higher and the tree is lower. תוספות explains what the ברייתא is adding to the משנה.

תוספות responds to an anticipated difficulty:¹

איצטריך לאיתויי הך אף על גב דבמתניתין נמי תנן בין מלמעלן בין מלמטן² -

It was necessary to cite this ברייתא, for even though it was also taught in the משנה ‘whether above or whether below’, so seemingly we know that their relative positions do not matter -

מכל מקום דאי ממתניתין הוה אמינא דאחרוב ושקמה קאי דעלה קאי³ -

Nevertheless we still need the ברייתא, for if we would only have our משנה, I would have said that the phrase 'חרוב ושקמה בין מלמעלן וכו' is referring to the case of חרוב ושקמה, for חרוב ושקמה - חרוב ושקמה is stated immediately following בין מלמעלן וכו' -

קא משמע לן ברייתא בכל אילן -

The ברייתא therefore lets us know that by all trees the rule of 'בין מלמעלן וכו' applies.

(הגה"ה. ולספרים דלא גרסינן במתניתין בין מלמטן אתי שפיר -

(An annotation. And according to the texts who are not גורס in our משנה the words בין מלמטן, it is properly understood the need to cite the ברייתא -

דאי ממתניתין הוה אמינא בין מלמעלן אאילן קאי⁵ ולא אבור -

For if from our משנה alone, I would say that the words בין מלמעלן בין מן הצד are

¹ See 'Overview'. The משנה stated הצד בין מן הצד; This would seem to indicate that the relative position of the tree and the pit is irrelevant; in all cases one must distance. What is the ברייתא adding?!

² In our texts the משנה reads הצד בין מלמעלן בין מן הצד, however תוספות had the גירסא of בין מלמטן, which makes the difficulty more pronounced (see later in the הגה"ה).

³ The משנה reads וכו' וכו' ומרחיקין את האילן מן הבור עשרים וחמש אמה, ובהרוב ובשקמה חמשים אמה בין מלמעלה בין וכו' (עשרים וחמש אמה instead of חמשים אמה; which are more restricted; חרוב ושקמה).

⁴ This is our גירסא as well.

⁵ The משנה is teaching that whether the tree is higher than the pit, or whether it is on the side of the pit, the tree needs to be distanced. This is well understood for even if the tree is higher on the slope of the mountain than the pit, nevertheless its roots will follow the ground downwards towards the pit. However, if not for the ברייתא we would never assume that if the pit is higher than the tree that distancing is required, since the roots will not travel uphill. Therefore, we require the ברייתא to teach us that in all cases distancing is required.

referring only to the tree, but not to the בור; the reason we would assume so is - משום דלא תקשי אלא בור מלמעלה ואילן מלמטה אמאי כדפריך אברייתא. עד כאן הגה"ה):
So that you should not ask, as the גמרא actually asks on the ברייתא (that we can understand why if the tree is higher one needs to distance); 'however if the pit is higher and the tree is lower, why is it necessary to distance;' the roots will not travel uphill. This concludes the annotation.):

Summary

We need the ברייתא to either teach us that distancing is required by all trees, or that distancing is required even if the pit is higher.

Thinking it over

According to the גירסא in the משנה of 'בין מלמעלן ובין מלמתן', is this referring to the pit, or is it referring to the tree?⁶

⁶ See footnote # 3.