

Rav Ashi said; for instance he joined his hand lower than three and received it; like *Rovo*

Overview²

איסור שבת ואיסור פטור since the explains the case of רב אשי that he is מגרר ויוצא (and there is no difficulty even if he dragged it out to the ר"ה), because he dragged it out with one hand and placed the other hand next to it טפחים מג' למטה, and the כ"ס, fell into the lower hand as he entered the ר"ה.³ Our פרש"י disagrees with תוספות.

פירש בקונטרס⁴ דקאי אמאי דפריך לעיל איסור גניבה ליכא -

ר"י explained that רב אשי is referencing this which the גמרא asked previously, 'there is no איסור גניבה' since משיכה/גרירה is not קונה ברה"ר -

והשתא משני דאיכא נמי איסור גניבה כדרבא⁵ -

So now ר"א answers that there is also an איסור גניבה like רבא ruled, in a case where - צירף ידו למטה מג' וקיבלו

פרש"י asks three questions on תוספות:

וקשה לרבינו יצחק חדא דמה ענין חשיבות מקום ד' דלענין שבת⁶ לקנין -

And the ר"י has a difficulty with פרש"י; firstly, the fact that a person's hand is considered a place of טפחים ד' על ד' טפחים ד' concerning שבת, what relevance is there in that rule regarding קנין -

A second question:

ועוד דאין צריך שום ראיה להביא דקניא ליה ידו⁷ -

And additionally there is no need for any proof that his hand is קונה for him -

¹ In the גמרא גירסא is כדרבא (not וקיבלו וכדרבא).

² See 'Overview' to תוס' ד"ה אי עמוד on this.

³ See רש"י ד"ה כגון ר.

⁴ בד"ה רב אשי.

⁵ There is a rule concerning שבת that it must be from/on a place which is טפחים ד' דע"ד טפחים ד' דע"ד, so an עקירה or הנחה from/on a hand is valid for הוצאה חייב.

⁶ See רש"י ד"ה כדרבא, who explains that since we see that a person's hand is חשוב ד' regarding שבת, it stands to reason that the hand is considered a מקום חשוב, regarding קנין as well that it should be considered as if he made a הגבהה מג'. למעלה. The ר"י does not understand the connection; why should we say that since a hand is like a ד' מקום therefore it should be considered a מג' למעלה; why?!

⁷ When we assumed that he was dragging it by rope (or in a bag) which is (like) a משיכה, we had the question that it is not קונה ברה"ר, however now that we say that he received the item in his hand, he is automatically קונה it (even in the ר"ה).

דפשיטא דונתן בידה⁸ אמר רחמנא כדפרישית לעיל⁹ -

For it is obvious since the תורה wrote (regarding a גט) and he should place it in her hand (ונתן בידה) as I explained previously; we do not require any הגבהה –

A third and final question:

ועוד דאמאי לא מוקי אפילו כשצירף ידו למעלה מג' -

And furthermore why does not ר"א establish the ברייתא even in a case where the joined hand was higher than ג' טפחים in the ר"ה -

כגון¹⁰ שהאסקופה גבוהה ג' דליכא הגבהה ברשות היחיד והוה מייתי מדרבא אקנין ואשבת¹¹ -

For instance where the threshold was three טפחים higher than the level of the ר"ה, and he was dragging it out close to the threshold, so there is no הגבהה in the ר"ה (since he is lower than three טפחים), however when he passes the אסקופה into the ר"ה, and places it into the adjoining hand, his adjoining hand is automatically above ג"ט, so there is a proper הגבהה, and according to this פשט he would be bringing support from רבא, both for the קנין גניבה and for the שבת –

ונראה כגירסת הספר שמצא רבינו יצחק בן רבינו מאיר בספרי אשכנז דגרס אי נמי כדרבא -

And תוספות finds it preferable like the גירסא of the text which the ריב"ם found in the אשכנז (German) texts, where it reads, 'alternately like רבא' (instead of וכדרבא, like רבא) that א"נ is a second version of אשי' answer –

ותוספות goes on to explain the two versions of אשי' answer:

וכולה מילתא אשבת¹² קאי¹³ כשצירף ידו למטה מג' -

And the entire answer of רב אשי is referencing the שבת (not גניבה, for once

⁸ דברים (תצא) כד, א.

⁹ עמוד א' [TIE footnote # 6] on the תוס' ד"ה דאי.

¹⁰ תוספות needs this following example, for otherwise if the hand is higher than ג' טפחים then the גב would acquire the איסור הוצאה, so the איסור גניבה would precede the איסור הוצאה.

¹¹ As it stands now the support for רבא is only regarding קנין; that it is considered a הגבהה (see footnote # 6), however now the support from רבא will be also regarding שבת that even though when his hand entered the ר"ה it was מג' למעלה and it was not resting on an actual מקום ד', nevertheless he is חייב since כדע"ד, and ידו של אדם חשובה לו כדע"ד, ידו של אדם חשובה לו כדע"ד, in this case too it is considered a הגבהה.

¹² This means that the concept of למטה מג' (צירף ידו) is for the purpose of חיוב שבת (not for חיוב גניבה), however (even according to תוספות) the answer of צירף ידו is necessary to explain how he was קונה the item גניבה (but regarding גניבה it is irrelevant whether it is למעלה or למטה מג').

¹³ תוספות maintains that if as he is dragging it out to the ר"ה, and he placed his other hand next to the stolen object and received it in his hand, there is a חיוב גניבה, once it is in his hand without any הגבהה necessary.

צירף ידו (in the first version), is to explain the שבת חיוב שבת - קונה, for no הגבהה is required), the reason we require

דאף על גב דלא חשיבא לענין שבת הנחה אלא על גבי מקום ד' -

That even though that regarding שבת, a הנחה is not valid unless it is on a 'מקום ד', and here it is in his hand, which is not a 'מקום ד' (so seemingly there is no שבת חיוב שבת together with the איסור גניבה), nevertheless -

איכא הכא חיוב שבת כשצירף ידו למטה מג' דלמטה מג' לא בעינן מקום ד' -

Here, when he placed his receiving hand 'למטה מג', there is (also) a שבת חיוב, for 'למטה מג' we do not require a 'מקום ד', since 'למטה מג' -

דכלבוד דמי וכמונחת ארעא דמיא -

It is like לבוד (attached to the ground), and it is as if it is lying on the ground (where there is a 'מקום ד'). This is the first version of s'רב אשי's answer; the second version is -

אי נמי¹⁴ אפילו צירף ידו למעלה מג' וכדרבא דידו חשובה כד' על ד' -

Or you may also say; there is a שבת חיוב even if he joined the second hand above דע"ד that a person's hand is considered רבא, and this follows the ruling of ג' טפחים

In summation; the answer of ר"א according to תוספות is that צירף ידו, means he dragged it out of the (רה"י) רשות בעלים by pulling it with one hand, and as it entered into the רה"ר, he received it with his other hand, thus making it קניני גניבה, since once an object is in the hand, one is קונה without any other requirements.¹⁵ The issue is how is there a שבת חיוב together with the גניבה, for since a hand is not a דע"ד so there is no valid הנחה. For this ר"א gives us two options; either that the receiving hand was 'למטה מג', where no 'מקום ד' is required, since within three טפחים from the ground it is considered as if it is resting on the ground, or it may even be that the receiving hand was למעלה מג' and nevertheless it is considered a 'מקום ד', the הנחה על מקום ד', since according to רבא the rule is that ידו של ידו של אדם חשובה לו כדע"ד.

גירסא offers a different interpretation and תוספות:

ורבינו תם לא גרס דאמר רבא ידו של אדם אלא וכדרבא ותו לא¹⁶ -

And the ר"ת was not גורס the words 'דאמר רבא ידו של אדם וכו', rather his גירסא was 'וכדרבא', and no more; it does not conclude 'ידו וכו' as in our גירסא -

ואתא לשנויי¹⁷ דמגרר ויוצא איצטריך ליה לאשמועינן דאגד יד לא שמיה אגד -

¹⁴ See footnote # 21. According to this א"נ it will need to be in a case of an אסקופה גבוהה ג' (see footnote # 10), for otherwise if his hand is למעלה מג' he was קונה בהגבהה in the רה"י.

¹⁵ It will be necessary to say that while he was dragging the object, it was not in his hand; he used a rope or a sack, etc. to drag it, for otherwise he would be קונה right away.

¹⁶ רבא was referring to a different statement of רב אשי.

¹⁷ The גמרא asked previously, why mention the פטור from גניבה in a case of מגרר when we can mention it in a case of זורק. The גמרא previously answered that מגרר איצטריך ליה to let us know that it is הוצאה בכך. Now ר"א proposes a different reason why he mentions מגרר, in order to teach us that אגד יד לא שמיה אגד.

And ר"א was coming to answer that it was necessary for the תנא to teach the case of מגרר ויוצא in order to inform us¹⁸ that (אגד יד לא שמייה אגד) 'the binding of a hand is not considered a binding'¹⁹ -

ואהא מייתי כדרבא דאמר בהמצניע (שבת דף צב,א) דאגד יד לא שמייה אגד -

And regarding this issue, ר"א cites from רבא who maintains in פרק המצניע that אגד יד לא שמייה אגד. Now תוספות explains where there is אגד יד here -

ומיירי כשהוא נשאר בפנים והוציא ידו אחת ובאחרת מגרר לתוכה²⁰ -

And we are discussing a case where the גנב remained inside the רה"י, and he extended one empty hand into the רה"ר and with the other hand he dragged the גניבה into the hand which was in the רה"ר -

ודוקא צירף למטה מג' דלמעלה משלשה שמייה אגד דבתר גופו גרירא -

And there is a חיוב שבת only if he joined his hand below ג' for above ג' טפחים. (רה"י) אגד יד שמייה אגד for the hand is dragged after the body (which is in a רה"י).

[ולפירוש קמא²¹ קשה דלשנויא קמא לית ליה דרבא -

[And according to the first explanation there is a difficulty, for according to the first version of the answer, רבא does not agree with רב אשי that ידו של אדם חשובה כדע"ד - וכולהו מתנייתא²² דשבת וכן רבי יוחנן (שבת ה,א) אתו כרבא]:

But all the משניות of שבת מסכת שבת and also ר"י all agree with רבא that ידו של אדם חשובה לו. (רה"י) אגד יד שמייה אגד, so how can ר"א disagree?].

Summary

According to רש"י the proof from רבא is that it is considered a מג' למעלה since הגבהה למעלה מג' אגד יד לא שמייה אגד. According to the ריב"ם the answer of מג' למטה explains why there is a הנחה, or it need not be מג' למטה since ידו של אדם חשובה כדע"ד. According to

¹⁸ Here too it does not mean that ר"א is only answering the previous question (see footnote # 17), but rather we divide ר"א's answer into two parts (see footnote # 12), the idea that he was צירף ידו answers why there is a חיוב גניבה, however אגד יד לא שמייה אגד למטה מג' explains why he mentions מגרר, because there is this חידוש of מג' למטה.

¹⁹ The issue of אגד יד is in a case where a person's hand is in one רשות and his body is in a different רשות, do we say that his hand is attached to his body, אגד יד שמייה אגד, and his hand is considered to be (more) in the רשות of his body, or do we say אגד יד לא שמייה אגד and the hand is not considered to be in the רשות of the body, but rather in the רשות where the hand is.

²⁰ The person was in the רה"י and the receiving hand was in the רה"ר; if we would maintain אגד יד שמייה אגד there would be no חיוב שבת since there was no הנחה in the רה"ר, for the hand (even though it was in the רה"ר, nevertheless) was attached to the body which is in the רה"י. And it is not considered as if a הנחה was made in the רה"ר.

²¹ This is the גירסת ריב"ם who divides רב אשי's answer into two versions, in which only the second version follows the ruling of רבא that ידו של אדם חשובה לו כדע"ד (see footnote # 14), but not the first version of the answer. That version seemingly disagrees with this ruling of רבא. This is the difficulty.

²² For example the first משנה in שבת gives examples of the הוצאה והכנסה of חיובים where the item was taken from a hand and placed into a hand, which forces us to accept that ידו של אדם חשובה לו כדע"ד.

the ר"ת we are finding support of s'רבא ruling that [למטה מג'] אגד לא שמייה אגד to understand why there is a ברה"ר.

Thinking it over

What are the relative merits of each of the three explanations found in תוס' (i.e. , רש"י, ר"ת and ריב"ם)?