

OVERVIEW of the Daf

1) Items included in the sale of a house (cont.)

The Gemara continues to search for the ruling of R' Eliezer that is inconsistent with the Beraisa that discusses the disqualification of a gutter that was hollowed out and then attached to the ground.

After identifying the ruling of R' Eliezer that is inconsistent with the Beraisa, the Gemara repeats the question that the Beraisa seems to be inconsistent with R' Eliezer and Chachamim.

It is suggested that the Beraisa could be explained in a way that is consistent with R' Eliezer.

This suggestion is rejected and the Gemara proposes that the Beraisa is consistent with Chachamim.

This suggestion is unsuccessfully challenged.

2) Mill-ring

Tangentially the Gemara poses an inquiry about the susceptibility to tum'ah of water that was collected to wash a mill ring that is attached to the ground.

The Gemara explains how the inquiry only makes sense according to Rabanan.

The inquiry is left unresolved.

R' Nechemyah the son of R' Yosef indicates that a mill-ring is classified as land. ■

REVIEW and Remember

1. What principle is derived from the verse **ויטבול אותה ביערת דבש**?
2. Is the disqualifications of using drawn water for a mikveh Biblical or Rabbinic?
3. What are **פשוטי כלי עץ**?
4. What type of rainwater makes seeds susceptible to tum'ah?

Distinctive INSIGHT

Removing honey from its hive on Shabbos

מאי טעמא דר' אליעזר דכתיב ויטבול אותה ביערת הדבש - מה יער התולש ממנו בשבת חייב חטאת אף דבש הרודה ממנו בשבת חייב חטאת

The Gemara stated that the Beraisa regarding hollowing out a pipe and installing it into the ground was not in accordance with the opinion of R' Eliezer. The Gemara proceeds to identify which opinion of R' Eliezer does not concur with that Beraisa. A Mishnah for Shevi'is (10:7) is cited which teaches, among other halachos, that one who removes honey from a bee hive on Shabbos is liable for a chattas offering for violating the Shabbos. This seems to indicate that R' Eliezer holds that the honey is considered attached to the ground, and this would ostensibly also be true for a pipe which is hollowed out and then installed into the ground. This is unlike the Beraisa which taught that a pipe which is hollowed out and then installed into the ground is still considered a pipe (כלי).

The Gemara responds by claiming that the reason R' Eliezer holds that removing honey from a bee hive on Shabbos is prohibited may be a different reason. The verse in Shmuel (1, 14:) associates removal of honey to a forest. Just as detaching trees from a forest is prohibited, so too is removal of honey from its source.

Tosafos explains that once the lesson is learned from the verse, we see that not only is it prohibited to take honey from a bee hive connected to the ground, but it is also prohibited to take from a bee hive that is detached or one suspended on pegs. The honey has the status of an item attached to the ground. If it is removed from its natural source where it was produced, this is a form of detaching, just as cutting branches from the trees of a forest.

Rabbi Obadiah of Bertinoro (in his commentary at the end of Masseches Uktzin) explains that it is only prohibited to remove honey from a bee hive which is connected to the ground. Based upon our Gemara, Rabbi Akiva Eiger (גלין רע"א שם) questions this opinion, noting, as did Tosafos, that R' Eliezer holds that honey, in all cases, is considered connected to its source and may not be removed from the hive on Shabbos. ■

HALACHAH Highlight

Immersing in a utensil that was carved out after it was placed in the ground

אליבא דר' אליעזר דאמר כל המחובר לקרקע הרי הוא כקרקע וכי'

According to R' Eliezer who said that anything that is attached to the ground is treated like it is ground etc.

Shulchan Aruch¹ rules that immersing in a vessel is invalid; therefore, if one took a utensil and attached it to the ground it may not be used as a mikveh even if it is filled with rain water. Shach² infers from the language of Shulchan Aruch that if the object was not a utensil when it was put into the ground and was carved out later it may be used for a mikveh. Later authorities are troubled by this ruling since our Gemara indicates that only with regards to Rabbinic law do we apply the principle that something that was put in the ground and then made into a utensil is considered part of the ground. Regarding Biblical matters we consider the item to be a utensil and thus someone who is Biblically obligated to immerse has not immersed in a valid mikveh.

Noda B'yehuda² writes that he has a tradition that

something that is explicit in the Gemara cannot be rejected in halacha and if necessary a person must exert great effort to explain how the Poskim are not refuted by the Gemara. Although he extends himself to defend the position held by earlier authorities regarding the validity of immersing in something that was put in the ground and then carved out, nonetheless, he advocates following a strict approach to these matters. He rules that one should not immerse in this type of mikveh for any immersion that is Biblically mandated. Thus, for example, one may not immerse a metal utensil in such a mikveh but it may be used to immerse glass utensils which require immersion by Rabbinic enactment.

Rav Shlomo Zalman Auerbach³ wrote at length to resolve the questions raised by Noda B'yehuda and concludes with the following statement. Although it would seem that halacha does not follow Noda B'yehuda in this matter and moreover many authorities offer resolutions to his challenges, nevertheless, they also mention that l'chatchila one should conduct oneself in accordance with his position and should not use this type of mikveh for an immersion that is Biblically mandated. ■

1. שו"ע יו"ד סי' ר"א סעי' ו'.
2. שו"ת נודע ביהודה מהדו"ת יו"ד סי' קמ"ב.
3. שו"ת מנחת שלמה ח"ב סי' ע"ו. ■

STORIES Off the Daf

Pool inquiry

"ושאני שאיבה דרבנן..."

When Rav Boruch Ben-Chaim, zt"l, was the rav of Solesbury, South Africa, he was approached by several couples with a remarkable question. Although there was no mikveh in the city there were private pools, and they had heard that a swimming pool can be a kosher mikveh. They wondered if immersion in a swimming pool was a halachically valid alternative since there was no mikveh available.

Rabbi Ben-Chaim was unsure how to answer. On the one hand, the

halacha follows the Rabanan on Bava Basra 66 who hold that mayim she'uvim is only rabbinically prohibited and the Shulchan Aruch rules that this is true even if the entire pool is filled with drawn water. Although the Ramah argues, the halacha for sefardim surely follows the Mechaber. Yet how could he tell them to violate an outright prohibition?

He decided to ask Rav Ovadia Yosef, zt"l, to answer this difficult question. "You are correct to hesitate since this is clearly forbidden since one may not tell another to violate a rabbinic prohibition in virtually all cases. The very few exceptions to this are discussed in the poskim and your question is certainly not among

them.

"Also, if they know they are sinning, they will hopefully do teshuvah and build a mikveh at some future date, but if you permit them to immerse in a swimming pool, they will never build a mikveh."

Rav Ovadia concluded with a last word of advice for Rav Ben-Chaim, "It is your honor's task to embark on a campaign to explain to your congregation the severity of this prohibition in a pleasant and convincing manner. In time they will surely do teshuvah and build a mikveh. Be strong since Hashem has sent you there to give life to a great congregation!"¹ ■

1. מובא בספר הליכות עולם, ח"ה, ע' קמ"ה-קמ"ו. ■