

A בס"ד

Intro

Today we will Be"H learn דף of בתרא בבא.
Some of the topics we will learn about include:

מחאה

The Gemara discusses many details of a valid protest, including:

היכי דמי מחאה

Which statements constitute a valid protest?

The Gemara also discusses

לא תימרו

לא תיפוק לכו שותא

If the protester said not to spread the news; or if the witnesses said that they will not spread it, whether this invalidates the protest.

מחאה שלא בפניו

Whether רבי יהודה agrees that the owner does not need to protest in the presence of the occupant?

A


 מחאה


 לא תימרו
לא תיפוק לכו שותא


 מחאה שלא בפניו

B מחאה בכמה

Before how many witnesses must he lodge his protest?

The Gemara relates this question to the concept of אפי תלתא

The license to repeat הרע לשון if it was already said in the presence of three people;

כיון שמיחה

Whether the protester must continue to protest regularly?

B


 מחאה בכמה


 אפי תלתא


 כיון שמיחה

1 So let's review...

The Gemara earlier concluded that the תנא קמא holds מחאה שלא בפניו הויה מחאה
 And the Gemara now elaborates היכי דמי מחאה
 How must the previous owner protest when he is not in the presence of the occupant?

פלניא גזלנא הוא לא הויה מחאה
 Simply saying, "The occupant is a thief," is not a valid protest, because he is not claiming that the land is his, he is simply maligning the occupant. However, פלניא גזלנא הוא דנקיט לה לארעאי בגזלנותא ולמחר תבענא ליה בדינא הויה מחאה
 If he says, "The occupant is a thief and has unlawfully taken my land, and I plan on taking him to court;" this is a valid protest.
 The Rashbam explains that he does not need to actually state that he will take him to court.

1

תנא קמא
**מחאה שלא בפניו
 הויה מחאה**

The Gemara now elaborates
היכי דמי מחאה

How must the previous owner protest when he is not in the presence of the occupant?



**פלניא גזלנא הוא
 דנקיט לה לארעאי
 בגזלנותא
 ולמחר תבענא ליה
 בדינא
 הויה מחאה**

If he says, "The occupant is a thief and has unlawfully taken my land, and I plan on taking him to court;" this is a valid protest.



**לא הויה מחאה
 פלניא גזלנא הוא**
 Simply saying, "The occupant is a thief" is not a valid protest, because he is not claiming that the land is his, he is simply maligning the occupant.

2 The Gemara now discusses how various declarations affect a protest:

1. אמר לא תימרו ליה
 If the owner protested in front of witnesses, but told them "Do not tell the occupant," it is a מחלוקת:

אמר רב זביד הא קאמר לא תימרו ליה
 This is not a valid מחאה, because the occupant will not hear of it since he told them not to repeat it.

רב פפא אמר לדידיה לא תימרו ליה לאחריני אימרו להו
 This is a valid מחאה, because he only meant they should not tell him directly, but they should tell others; and since חברך חברא אית ליה
 חברא דחברך חברא אית ליה
 The news will eventually reach the occupant.

2

How various declarations affect a protest

1

**אמר
 לא תימרו ליה**

If the owner protested in front of witnesses, but told them "Do not tell the occupant"

רב פפא אמר

**לדידיה לא תימרו ליה
 לאחריני אימרו להו**

This is a valid מחאה, because he only meant they should not tell him directly, but they should tell others; and since חברך חברא אית ליה
 חברא דחברך חברא אית ליה
 The news will eventually reach the occupant.

אמר רב זביד

**הא קאמר
 לא תימרו ליה**

This is not a valid מחאה, because the occupant will not hear of it since he told them not to repeat it.

3

2.
 אמרו ליה
 לא אמרינן ליה
 If the owner protested normally, and the witnesses responded by saying, "We will not tell him;"
 אמר רב זביד
 הא קא אמרו ליה
 לא אמרינן ליה
 This is not a valid מחאה, because the occupant will not hear of it since they said they will not tell him about it.
 רב פפא אמר
 לדידיה לא אמרינן ליה
 לאחריני אמרי להו
 This is a valid מחאה, because they only meant that they will not tell him directly, but they will tell others, and so
 חברך חברה אית ליה
 וחברא דחברך חברה אית ליה
 The news will eventually reach the occupant.

3.
 אמר להו
 לא תיפוק לכו שותא
 If the owner protested, and then said, "Do not let a word leave your mouth,"
 הא קאמר לא תיפוק לכו שותא
 All agree that this is not a valid מחאה, because this clearly means that they should not tell anyone, and so the occupant certainly will not hear of it.

4.
 אמרו ליה לא מפקינן שותא
 If he protested normally, and the witnesses responded,
 "Not a word will leave our mouths;"
 אמר רב פפא
 הא קאמרי ליה לא מפקינן שותא
 This is not a valid מחאה, because they clearly said that they will not tell anyone, and so the occupant will not hear of it.
 However, רב הונא בריה דרב יהושע argues
 כל מילתא דלא רמיא עליה דאיניש
 אמר לה ולא אדעתיה
 This is a valid מחאה, because people usually inadvertently reveal information that they were not specifically instructed to keep private and is not detrimental. Therefore, it will become known to the occupant.
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3

2
**אמרו ליה
 לא אמרינן ליה**

If the owner protested normally, and the witnesses responded by saying "We will not tell him"

רב פפא אמר
**לדידיה לא אמרינן ליה
 לאחריני אמרי להו**

This is a valid מחאה, because they only meant that they will not tell him directly, but they will tell others, and so
 חברך חברה אית ליה
 וחברא דחברך חברה אית ליה
 The news will eventually reach the occupant.

אמר רב זביד
**הא קא אמרו ליה
 לא אמרינן ליה**

This is not a valid מחאה, because the occupant will not hear of it since they said they will not tell him about it.

3
**אמר להו
 לא תיפוק לכו שותא**

If the owner protested, and then said, "Do not let a word leave your mouth,"

הא קאמר לא תיפוק לכו שותא

All agree that this is not a valid מחאה, because this clearly means that they should not tell anyone, and so the occupant certainly will not hear of it.

4
**אמרו ליה
 לא מפקינן שותא**

If he protested normally, and the witnesses responded, "Not a word will leave our mouths"

רב הונא בריה דרב יהושע
**כל מילתא דלא רמיא
 עליה דאיניש
 אמר לה ולא אדעתיה**

This is a valid מחאה, because people usually inadvertently reveal information that they were not specifically instructed to keep private and is not detrimental. Therefore, it will become known to the occupant.

אמר רב פפא
**הא קאמרי ליה
 לא מפקינן שותא**

This is not a valid מחאה, because they clearly said that they will not tell anyone, and so the occupant will not hear of it.

4 The Gemara earlier established

מחאה שלא בפניו
לתנא קמא
הויה מחאה
לרבי יהודה
לא הויה מחאה

According to תנא קמא, the owner does not need to protest in the presence of the occupant, while רבי יהודה maintains that he does, and he therefore rules

לא אמרו שלש שנים אלא
כדי שיהא באספמיה

ויחזיק שנה
וילכו ויודיעוהו שנה
ויבא לשנה אחרת

Three years are necessary to allow time for the news of the occupancy to reach the owner, and for him to return and protest.

However, רב נחמן explains that רבי יהודה also agrees that מחאה שלא בפניו

הויה מחאה

Rather,

עצה טובה קמ"ל

דניתי ונשקול ארעא ופירי

He is only advising the owner to return immediately, because if he comes back later it will be difficult to take back the land and to collect for the produce the occupant consumed in the interim. However, he can protest from afar, and the three years are so others can return and tell the occupant of the protest.

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4

מחאה שלא בפניו

אתנא קמא
הויה מחאה

לרבי יהודה
לא הויה מחאה

רב נחמן

רבי יהודה agrees that
מחאה שלא בפניו

הויה מחאה

Rather,

עצה טובה קמ"ל

דניתי ונשקול ארעא ופירי

He is only advising the owner to return immediately, because if he comes back later it will be difficult to take back the land and collect the produce the occupant consumed.

However, he can protest from afar, and the three years are so others can return and tell the occupant of the protest.

לא אמרו ג' שנים אלא
כדי שיהא באספמיה

ויחזיק שנה

וילכו ויודיעוהו שנה
ויבא לשנה אחרת

Three years are necessary to allow time for the news of the occupancy to reach the owner, and for him to return and protest.

5 The Gemara now cites two versions of a ruling by רבי יוחנן concerning

מחאה בכמה

Before how many witnesses must he lodge his protest?

ר' חייא בר אבא אמר ר' יוחנן

מחאה בפני שנים

He must protest in front of two witnesses.

ר' אבהו אמר ר' יוחנן

מחאה בפני שלשה

He must protest in front of three witnesses.

The Gemara offers several explanations for this מחלוקת:

1.

rules רבה בר רב הונא

כל מילתא דמתאמרא באפי תלתא

לית בה משום לישנא בישא

One may repeat a disparaging statement made in front of three witnesses and there is no prohibition of הרע, לשון הרע, because it's assumed that it will certainly become public knowledge. Accordingly,

מ"ד בפני שנים

לית ליה דרבה בר רב הונא

The first opinion argues, and maintains that even two witnesses suffice to spread news.

ומ"ד בפני ג'

אית ליה דרבה בר רב הונא

The second opinion agrees, and requires three witnesses to spread news.

6 2. דכולי עלמא
אית להו דרבה בר רב הונא
All agree that news only spreads through three witnesses.

מ"ד בפני שנים קסבר

מחאה שלא בפניו

לא הויא מחאה

The first opinion holds that he must protest in front of the occupant. Therefore, the witnesses only serve to confirm that he protested, and so two witnesses suffice.

ומ"ד בפני ג' קסבר

מחאה שלא בפניו

הויא מחאה

The second opinion holds that he does not need to protest in front of the occupant. Therefore, the witnesses also serve to spread the news, and so we require three witnesses.

5 רבי יוחנן
מחאה בכמה
Before how many witnesses must he lodge his protest?

?

ר' אבהו אמר ר' יוחנן

**מחאה
בפני שלשה**

He must protest in front of three witnesses.

ר' חייא בר אבא אמר ר' יוחנן

**מחאה
בפני שנים**

He must protest in front of two witnesses.

1

רבה בר רב הונא

**כל מילתא דמתאמרא באפי תלתא
לית בה משום לישנא בישא**

One may repeat a disparaging statement made in front of three witnesses and there is no prohibition of הרע, לשון הרע, because it's assumed that it will certainly become public knowledge. Accordingly,

**ומ"ד בפני שלש
אית ליה**

דרבה בר רב הונא
The second opinion agrees, and requires three witnesses to spread news.

**מ"ד בפני שנים
לית ליה**

דרבה בר רב הונא
The first opinion argues, and maintains that even two witnesses suffice to spread news.

6 2. דכולי עלמא
אית להו דרבה בר רב הונא
All agree that news only spreads through three witnesses.

**ומ"ד בפני ג' קסבר
מחאה שלא בפניו
הויא מחאה**

He does not need to protest in front of the occupant. Therefore, the witnesses also serve to spread the news, and so we require three witnesses.

**מ"ד בפני ב' קסבר
מחאה שלא בפניו
לא הויא מחאה**

He must protest in front of the occupant. Therefore, the witnesses only serve to confirm that he protested, and so two witnesses suffice.

7

3.

דכ"ע
מחאה שלא בפניו
הויא מחאה

All agree that the owner does not need to protest in front of the occupant.

מ"ד בפני ב' סבר

סהדותא בעינן

The first opinion holds that we require him to protest in front of two witnesses, since they can testify that he protested, and we allow for the possibility that the occupant heard of it.

ומאן דאמר בפני ג' קסבר

גלויי מילתא בעינן

The second opinion holds that we require him to protest in front of three witnesses, so that the news will spread and most likely reach the occupant.

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7

3

דכ"ע
מחאה שלא בפניו
הויא מחאה

All agree that the owner does not need to protest in front of the occupant.

ומ"ד בפני ג' קסבר
גלויי מילתא בעינן

We require him to protest in front of three witnesses, so that the news will spread and **MOST LIKELY** reach the occupant.

מ"ד בפני ב' סבר
סהדותא בעינן

We require him to protest in front of two witnesses, since they can testify that he protested, and we allow for the **POSSIBILITY** that the occupant heard of it.

8 The Gemara discusses the duration of a protest's validity:

אמר רב
כיון שמיחה שנה ראשונה
שוב אינו צריך למחות
Once the owner protests during the first year of
occupancy, he no longer needs to protest during the
second or third year.
On the other hand,
אמר ר"ל משום בר קפרא
'צריך למחות בסוף כל ג' וג'
He must protest once every three years.

However, רבי יוחנן argues
וכי כגזלן יש לו חזקה
Once the owner protests and accuses the occupant of
being a thief, he should keep the deed to the property
forever, or he forfeits his claim. Therefore, the owner does
not need to protest more than once.

רבא rules
הלכתא
'צריך למחות בסוף כל ג' וג'
The owner must protest once every three years.

בר קפרא, who holds that 'צריך למחות בסוף כל ג' וג' adds:
ערער
חזר וערער
חזר וערער
When the owner protests every three years, or as the
Rashbam adds, even several years consecutively within
the three years;
אם מחמת טענה ראשונה ערער
אין לו חזקה
If he consistently maintains the same claim; for example,
that the occupant stole his property, the מחאה invalidates
the חזקה.
אם לאו
יש לו חזקה
If he changes his claim; for example, he first claimed that
the occupant stole the property and then protested a
second time and claimed that he gave the property to the
occupant as collateral, he lost his credibility and it's as if
he never protested at all. Therefore, since there is no מחאה,
the occupant establishes a חזקה.

8

אמר ר"ל משום בר קפרא
**צריך למחות
בסוף כל ג' וג'**
He must protest
once every three years.

אמר רב
**כיון שמיחה
שנה ראשונה
שוב אינו צריך
למחות**

Once the owner protests
during the first year
of occupancy, he no longer
needs to protest during the
second or third year.

רבי יוחנן
**וכי כגזלן
יש לו חזקה**
Once the owner protests and
accuses the occupant of being
a thief, he should keep the
deed to the property forever,
or he forfeits his claim.
Therefore, the owner
does not need to protest
more than once.

רבא
**הלכתא
צריך למחות
בסוף כל ג' וג'**
He must protest once
every three years.

בר קפרא
ערער - חזר וערער - חזר וערער
When the owner protests every three years
or even several years consecutively within the three years;

**אם מחמת טענה ראשונה ערער
אין לו חזקה**
If he consistently maintains the same claim;
for example, that the occupant stole his property,
the מחאה invalidates the חזקה.

**אם לאו
יש לו חזקה**
If he changes his claim; for example, he first claimed
that the occupant stole the property
and then protested a second time and claimed that he gave
the property to the occupant as collateral,
he lost his credibility and it's as if he never protested at all.
Therefore, since there is no מחאה,
the occupant establishes a חזקה.