

## A ב"ד

## Intro

Today we will learn בע"ה of בבא מציעא דף ע"ד  
Some of the topics we will learn about include.

The Machlokes רב ושמואל regarding the Mishnah's Halachah of

יש לו מותר

If at the time of payment, the seller has the produce in his possession, one may prepay at any price.

רב holds

מחוסר שתיים פוסק

שלש אינו פוסק

If only two tasks remained for the products completion, even if the tasks cannot be done by a person it is considered יש לו, but if three or more tasks remained, it is considered אין לו.

holds שמואל

בידי אדם

אפילו מאה פוסק

בידי שמים

אפילו אחת אינו פוסק

If the task can be done by a person, then even if one hundred tasks remained it is considered יש לו; but if the task cannot be done by a person, then even if only one task remained, it is considered אין לו.

The Machlokes regarding a זבל on פסיקה, fertilizer, is this permitted even if אין לו or only if יש לו.

## B The Machlokes regarding

פוסק עמו בשער הגבוה

Only if the buyer stipulates at the time of the פסיקה that if the price decreases at the time of delivery, the sale should be as per the later low price, does he receive the low price. OR even if he did not stipulate this he still receives the low price?

The Machlokes רבי שמעון וחכמים regarding מעות קונות; Whether one acquires moveable item through קנין כסף payment or not?

## A

יש לו

רב

מחוסר שתיים פוסק  
שלש אינו פוסק

שמואל

בידי אדם  
אפילו מאה פוסק

בידי שמים  
אפילו אחת אינו פוסק

זבל

## B

פוסק עמו  
בשער הגבוה

מעות קונות

**C** The Mishnah's Halachah of מלוה אדם את אריסיו בחטין לזרע אבל לא לאכול

A person may lend his share croppers wheat to be paid back in wheat, only if the wheat was to be planted but he may not do so if the wheat was to be consumed, because the רבנן prohibited one from lending בסאה produce to be paid back in the same amount of produce, out of concern that if the price increases, the lender benefits through his loan

However  
בחטין לזרע מותר  
Because

כי קא נחית לבציר מהכי קא נחית  
When the owner loans him the wheat, the אריס agrees to work for a lesser amount, in that the owner will receive the gain of expensive wheat, and therefore the gain was not רבית.

**C**

מלוה אדם את אריסיו  
חטין בחטין  
לזרע  
אבל לא לאכול

בחטין לזרע מותר

1 So let's review ...

The previous Mishnah taught  
אין פוסקין על הפירות

One may not prepay for produce for later delivery, because the seller agrees to deliver the same amount of wheat even if the price will have increased by the time of delivery, and the buyer receives this gain for his prepayment, which is רבית.

There are two exceptions, however, when פסיקה is permitted:

1.

יצא השער  
מותר

If at the time of payment the market price was already firmly established, one may prepay at the current market price, because, אף על פי שאין לזה יש לזה

The מוכר has the ability to use the לוקח's money and buy wheat on the open market and provide it to the buyer. OR even if there was no market price

2.

יש לו  
מותר

If at the time of payment the seller has the produce in his possession, one may prepay at any price, because as Rashi explains

דמעכשיו הוא קנוי לו

We consider it that the לוקח immediately owns the produce before the price increased.

As the Mishnah elaborates

היה הוא תחילה לקוצרים  
פוסק עמו על הגדיש

One may make a פסיקה on grain if the seller already cut his grain, even though the others did not cut their grain and there was no שער;

And

ועל העביט של ענבים

On wine, if the seller had prepared grapes in a vat ready to be pressed;

ועל המעטן של זיתים

On oil, if the seller had prepared olives in a vat ready to be pressed;

ועל הביצים של יוצר

On pottery, if the seller had prepared clay ready to be formed;

ועל הסיד מששקעו בכבשן

On lime, if the seller had prepared wood and stones in a furnace, ready to be burned;

1

משנה

אין פוסקין על הפירות

One may not prepay for produce for later delivery, because the seller agrees to deliver the same amount of wheat even if the price will increase at the time of delivery, and the buyer receives this gain for his prepayment, which is רבית.

There are two exceptions

2

יש לו – מותר

If at the time of payment the seller has the produce in his possession, one may prepay at any price, because

as Rashi explains

דמעכשיו הוא קנוי לו

We consider it that the לוקח immediately owns the produce before the price increased.

1

יצא השער – מותר

If at the time of payment the market price was already firmly established, one may prepay at the current market price, because,

אף על פי שאין לזה יש לזה

The מוכר has the ability to use the לוקח's money and buy wheat on the open market and provide it to the buyer.

היה הוא תחילה לקוצרים  
פוסק עמו על הגדיש

One may make a פסיקה on grain if the seller already cut his grain, even though others did not cut their grain and there was no שער

ועל העביט של ענבים

On wine, if the seller had prepared grapes in a vat ready to be pressed

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On oil, if the seller had prepared olives in a vat ready to be pressed

ועל הביצים של יוצר

On pottery, if the seller had prepared clay ready to be formed

ועל הסיד מששקעו בכבשן

On lime, if the seller had prepared wood and stones in a furnace, ready to be burned;

2 The Gemara cites a Machlokes as to what extent must the product be completed in order to be considered **יש לו** for which a פסיקה is permitted?  
 רב says  
 מחוסר שתיים פוסק  
 שלש אינו פוסק  
 If only two tasks remained for the products completion, even if the tasks cannot be done by a person it is considered **יש לו** and therefore one may make a פסיקה; but if three or more tasks remained, it is considered אין לו and therefore one may not make a פסיקה.

שמואל disagrees and says

בידי אדם

אפילו מאה פוסק

It does not depend on the number of tasks but rather if the task can be done by a person, then even if one hundred tasks remained it is still considered **יש לו** because

בידו להשלים

The seller has the ability to complete the product.

However

בידי שמים

אפילו אחת אינו פוסק

If the task cannot be done by a person, then even if only one task remained, it is considered אין לו because

אין בידו להשלים

The seller does not have the ability to complete the product.

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2

To what extent must the product be completed in order to be considered **יש לו** for which a פסיקה is permitted

?

<p><i>שמואל</i></p> <p><b>בידי אדם אפילו מאה פוסק</b></p> <p><i>It does not depend on the number of tasks but rather if the task can be done by a person, then even if one hundred tasks remained it is still considered יש לו</i></p> <p><i>Because - בידו להשלים - the seller has the ability to complete the product.</i></p>	<p><i>רב</i></p> <p><b>מחוסר שתיים פוסק שלש אינו פוסק</b></p> <p><i>If only two tasks remained for the products completion, even if the tasks cannot be done by a person it is considered יש לו and therefore one may make a פסיקה; But if 3 or more tasks remained, it is considered אין לו and therefore one may not make a פסיקה.</i></p>
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However

**בידי שמים – אפילו אחת אינו פוסק**

*If the task cannot be done by a person, then even if only one task remained, it is considered אין לו because - אין בידו להשלים -*

*The seller does not have the ability to complete the product.*

3

The Mishnah continues

ופוסק עמו על הזבל כל ימות השנה

The תנא קמא says one may make a פסיקה on fertilizer all year long, as the Gemara explains

בין בימות החמה בין בימות הגשמים

During both the summer and winter months, even though the seller does not have any in his possession, because אף על פי שאין לזה יש לזה

Fertilizer is always available, and the seller had the ability to buy it from others.

וחכמים מתירים

As the Gemara explains the חכמים hold it depends

בימות החמה פוסקין

During the summer months, one may make a פסיקה on fertilizer, because as Rashi explains

שהכל יש להן זבל

Most people have fertilizer that was processed during the winter, and it is easy to be gotten. However

בימות הגשמים אין פוסקין

During the winter months one may not make a פסיקה on fertilizer, because most people do not have fertilizer, and it is not easy to be gotten.

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3

משנה

ופוסק עמו על הזבל כל ימות השנה

One may make a פסיקה on fertilizer all year long,

As the Gemara explains

בין בימות החמה בין בימות הגשמים

During both the summer and winter months,

רבי יוסי

תנא קמא

אין פוסקין על הזבל  
אלא אם כן היתה לו  
זבל באשפה

One may not make a פסיקה on fertilizer unless the seller actually has some in his garbage pile.

אף על פי שאין לזה  
יש לזה

even though the seller does not have any in his possession, because fertilizer is always available, and the seller had the ability to buy it from others.

וחכמים מתירים

בימות הגשמים  
אין פוסקין

During the winter months one may not make a פסיקה on fertilizer, because most people do not have fertilizer, and it is not easy to be gotten.

בימות החמה  
פוסקין

During the summer one may make a פסיקה on fertilizer

As Rashi explains שהכל יש להן זבל

4 The Mishnah continues

ופוסק עמו בשער הגבוה  
 If one makes a פסיקה now for a later delivery, the buyer must stipulate that if the price decreases at the time of delivery, the sale should be as per the low price. If he did not so stipulate, he must accept the produce for the high price at the time of the פסיקה, and he may not retract from the sale.

יהודה disagrees and says  
 אע"פ שלא פסק עמו בשער הגבוה  
 יכול לומר תן לי כזה או תן לי את מעותי  
 Even if the buyer did not so stipulate and the price decreased, he may tell the seller, give me the produce for the lower price, or I will retract from the sale, and he is permitted to do so, because as Rashi explains  
 שהרי לא משך

The buyer did not make a קנין on the produce, and even though generally one who pays for an item and then retracts is liable for a שפרע מי, however in this situation there is no שפרע מי because  
 הואיל ונתן מעותיו ע"מ לקבל לאחר זמן  
 וסתם דעתיה דאיניש אתרעא זולא פסיק  
 The payment was for a later delivery when the price is subject to change, and the buyers intentions were only for the cheapest price.

=====

4

מאן

ופוסק עמו בשער הגבוה

If one makes a פסיקה now for a later delivery, the buyer must stipulate that if the price decreases at the time of delivery, the sale should be as per the low price.

If he did not so stipulate, he must accept the produce for the high price at the time of the פסיקה, and he may not retract from the sale.

רבי יבנה

אע"פ שלא פסק עמו בשער הגבוה  
 יכול לומר תן לי כזה או תן לי את מעותי

Even if the buyer did not so stipulate and the price decreased, he may tell the seller, give it to me at the lower price, or I will retract from the sale.

As Rashi explains

שהרי לא משך

The buyer did not make a קנין on the produce, and even though generally one who pays for an item and then retracts is liable for a שפרע מי, however in this situation there is no שפרע מי because

הואיל ונתן מעותיו ע"מ לקבל לאחר זמן  
 וסתם דעתיה דאיניש אתרעא זולא פסיק

The payment was for a later delivery when the price is subject to change, and the buyers intentions were only for the cheapest price.

5 Zugt Di Mishnah

מלוה אדם את אריסיו חטין בחטין לזרע אבל לא לאכול

A person may lend his sharecroppers wheat to be paid back in wheat, only if the wheat was to be planted; but he may not do so if the wheat was to be consumed, because the רבנן prohibited one from lending בראה produce to be paid back in the same amount of produce, out of concern that if the price increases, the lender benefits through his loan.

The Gemara cites a Braisa that makes a distinction regarding לזרע חטין:

בד"א שלא ירד אבל ירד אסור

He may lend the wheat only before the אריס began to work, but he may not lend the wheat after the אריס began to work.

And the Gemara explains

באתרא דתנא דידן אריסא יהיב ביזרא

The Mishnah refers to an area where the local custom is that the sharecropper supplies the wheat for planting, and therefore

בין ירד ובין לא ירד חטין לזרע מותר

Regardless of whether the loan was before or after the אריס began to work, it is permitted because

כמה דלא יהיב ביזרא מצי מסליק ליה

The owner could remove the אריס from the field at any time because he did not supply wheat;

וכי קא נחית לבציר מהכי קא נחית

When the owner loans the wheat, it's considered a new agreement that the אריס will work for a lesser amount and the owner will receive the gain of expensive wheat, therefore the gain was not רבית.

5

מלוה אדם את אריסיו חטין בחטין לזרע אבל לא לאכול

A person may lend his sharecroppers wheat to be paid back in wheat, only if the wheat was to be planted;

but he may not do so if the wheat was to be consumed, because the רבנן prohibited one from lending בראה produce to be paid back in the same amount of produce, out of concern that if the price increases, the lender benefits through his loan.

ברייתא

A distinction regarding חטין לזרע

בד"א שלא ירד – אבל ירד אסור

He may not lend the wheat after the אריס began to work.

He may lend the wheat only before the אריס began to work,

באתרא דתנא דידן אריסא יהיב ביזרא

The Mishnah refers to an area where the local custom is that the sharecropper supplies the wheat for planting, and therefore

בין ירד ובין לא ירד – חטין לזרע מותר

Regardless of whether the loan was before or after the אריס began to work, it is permitted because

כמה דלא יהיב ביזרא מצי מסליק ליה

The owner could remove the אריס from the field at any time because he did not supply wheat;

וכי קא נחית לבציר מהכי קא נחית

When the owner loans the wheat, it's considered a new agreement that the אריס will work for a lesser amount and the owner will receive the gain of expensive wheat, therefore the gain was not רבית.



**6** However  
 באתרא דתנא ברא  
 מרי ארעא יהיב ביזרא  
 The Braisa refers to an area where the local custom was  
 that the owner supplies the wheat for planting, and  
 therefore  
 אי לא ירד דמצי מסליק ליה  
 מותר  
 Only if the loan was before the אריס began to work, and  
 the owner can still remove the אריס from the field do we  
 say  
 כי קא נחית לבציר מהכי קא נחית  
 It's a new agreement that the אריס will work for a lesser  
 amount; however  
 אי ירד דלא מצי מסליק ליה  
 אסור  
 If the loan was after the אריס began to work and the owner  
 cannot remove the אריס from the field, this is forbidden,  
 because the אריס cannot be compelled to accept a lesser  
 amount, and therefore the owners gain is only for the loan,  
 which is רבית.

**6**

**באתרא דתנא ברא  
 מרי ארעא יהיב ביזרא**  
*The Braisa refers to an area  
 where the local custom was that the owner  
 supplies the wheat for planting,  
 and therefore*

**אי לא ירד דמצי מסליק ליה – מותר**  
*Only if the loan was before the אריס began to work,  
 and the owner can still remove the אריס from the field  
 do we say*

**כי קא נחית לבציר מהכי קא נחית**  
*It's a new agreement  
 that the אריס will work for a lesser amount;  
 however*

**אי ירד דלא מצי מסליק ליה – אסור**  
*If the loan was after the אריס began to work  
 and the owner cannot remove the אריס from the field,  
 this is forbidden,  
 because the אריס cannot be compelled  
 to accept a lesser amount, and therefore  
 the owners gain is only for the loan, which is רבית.*

**7** The Mishnah concludes  
 שהיה רבן גמליאל מלוה את אריסיו חטין בחטין לזרע  
 רבן גמליאל would lend his share croppers wheat for  
 planting as follows  
 ביוקר והזולו או בזול והוקרו  
 נוטל מהן כשער הזול  
 Regardless of whether the price later decreased or  
 increased, he always accepted the wheat for the cheaper  
 price, because  
 ולא מפני שהלכה כן  
 אלא שרצה להחמיר על עצמו  
 He was more stringent with himself than with others.  
 However, he does agree להלכה that one may accept the  
 wheat even for the more expensive price because  
 כי קא נחית לבציר מהכי קא נחית

**7**

**שהיה רבן גמליאל  
 מלוה את אריסיו חטין בחטין לזרע**  
*רבן גמליאל would lend his share croppers  
 wheat for planting as follows*

**ביוקר והזולו או בזול והוקרו  
 נוטל מהן כשער הזול**  
*Regardless of whether the price later decreased or  
 increased, he always accepted the wheat for the  
 cheaper price, because*

**ולא מפני שהלכה כן  
 אלא שרצה להחמיר על עצמו**  
*He was more stringent with himself than with others.  
 However, he does agree להלכה that one may accept the  
 wheat even for the more expensive price because*

**כי קא נחית לבציר מהכי קא נחית**