

## Bava Basra – Simanim

### דף 57 – נז

### פרק ג – חזקת הבתים

#### 1. *Chazakah* for temporary activities in a חצר

The next Mishnah lists which activities in a property establish a *chazakah* that he acquired the right to continue doing that activity in that property. It first lists activities which cannot have a *chazakah* to continue: היה מעמיד בהמה בחצר – if *one placed an animal in another person's courtyard*, or movable utensils (e.g., and oven), or chickens, or manure, there is no *chazakah* proving an acquired right to these activities, because the owner does not protest such temporary activities. However, if he built a *ten-tefach* fence for his animal, etc., a *chazakah* is established for these activities after three years, because the owner would not otherwise allow such structures built on his property. The Gemara asks that an owner would be expected to protest even temporary activities in his private domain, and Rabbah bar Avuha answered that the Mishnah's case is בחצר השותפין – *a jointly owned courtyard*, because partners do not object to these uses (although they impede its passage). This seems to contradict a Mishnah, that partners who vowed not to benefit from each other cannot even enter their shared *chatzeir*!? Three answers are given.

#### 2. ועוצם עיניו מראות ברע.

The *passuk* says: “ועוצם עיניו מראות ברע” – *and one who shuts his eyes from seeing evil*. Rebbe Chiya bar Abba explains: זה שאין מסתכל בנשים בשעה שעומדות על הכביסה על הכביסה – *this refers to one who does not gaze at women when they are standing over their laundering*, when their feet are exposed. Because the *passuk* praises this person, the Gemara seeks to clarify the case where he would not be considered especially righteous or wicked if he would not avoid looking: אי דליכא דרכא אחריתא – *if there is another route to avoid passing the women laundering*, and he does not take it, רשע הוא – *he is a wicked person for taking this route*, even if he does look away!? אי דליכא דרכא אחריתא אנוס הוא – *if there is no other route to take, he is forced to see the women as he passes*, and what can he be expected to do? The Gemara answers that although there is no other route, אפ"ה מיבעי ליה למינס נפשיה – *even so, he should force himself to look away and is praiseworthy if he does so*.

#### 3. The clothing, table, and bed of a תלמיד חכם

Rebbe Yochanan asked Rebbe Bana'ah: חלוק של ת"ח כיצד – *how long should the tunic of a talmid chochom be?* He answered: כל שאין בשרו נראה מתחתיו – *so that his flesh should not be visible from underneath*. He asked about a *talmid chochom's* outer cloak, and Rebbe Bana'ah answered: כל שאין טפח חלוקו נראה מתחתיו – *so that a tefach of his tunic should not be visible from below the cloak*. He then described how a *talmid chochom's* table should be set: two thirds are covered with a cloth (where those eating would sit), on which the bread is placed, and one third is left uncovered for placing platters of food and cups, so they would not dirty the cloth. The table's ring (on which it was hung) is on the outside, away from those eating. This contradicts a Baraisa teaching the ring is on the inside, and three solutions are offered. The table of an הארץ עם is described as דומה למדורה וקדרות מקיפות אותה – *similar to a fire with pots surrounding it*, because he places the bread on the covered center, and the food platters around it. The bed of a תלמיד חכם has nothing under it but that season's shoes, but the underneath of an *am haaretz's* bed is like an אוצר בלוס – *a cluttered storeroom* (i.e., a haphazard mess of utensils and food).

#### Siman – Nose

The man with the long nose who had no need to protest when his partner stored a pile of dolls with long noses in their shared yard, averted his eyes when walking past the women in the river doing laundry and washing the cloak of a *talmid chochom* which was long enough to cover all of his flesh.

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Nu Nu (shusher)



The shusher in Beis Din said “nu nu” to quiet two זוממין עדים testifying to a חזקה who had to pay the owner for a field, and to two other עדים who were saying half an עדות, because of דבר ולא חצי דבר, to allow a set of עדים to testify on a חזקה even though one said the מחזיק ate wheat and the other said he ate barley.

### 3 things to remember

1. זוממין עדים of a *chazakah* who were found זוממין
2. דבר ולא חצי דבר
3. אחד אומר אכלה חטים ואחד אומר אכלה שעורים

