

**Daf Hashvuah Gemara and Tosfos Beitza Daf 40**  
**By Rabbi Chaim Smulowitz**  
**Tosfos.ecwid.com**  
**Subscribe free or Contact: tosfosproject@gmail.com**

**New Sugya**

Someone who had his fruit in a different city (outside his T'chum), and people of that city made an Eiruv to bring him the fruit, they can't bring them to him (since it's out of its own T'chum). If the owner made an Eiruv, then his fruit has the same T'chum (that he has with the Eiruv, so he can bring them).

**Daf 40a**

Someone who invited guests, they can't carry portions with them back to their house (if it's out of the T'chum, and they came by Eiruv) unless they had someone acquire them for the guests before Yom Tov.

**Tosfos Yeshanim asks: why does he need to acquire it for him? After all, it should be enough to designate it for him. It's no worse than lending an item, it gets the T'chum of the borrower even though he only gave it on Yom Tov.**

**Tosfos Yeshanim answers: a borrower is more expectant to receive the utensil (so, we consider as if it's in his possession from before Yom Tov), than a guest is expectant to get a portion (to take home).**

We learned: if someone gives over fruits to his friend to watch, Rav says that it gets the T'chum of the one watching it and Shmuel says it gets the T'chum of the owner.

Let's say that they're consistent to their opinions in Bava Kama. As we learned; if someone brings his animal in someone's courtyard with his consent, if anything happens to it, the Tanna Kama says that the courtyard's owner is obligated to pay (since we assumed that he accepted to guard it when he gave permission to bring it in). Rebbi says: he's not obligated to pay unless he explicitly accepted to guard it. Rav Paskins like the Chachumim (Tanna Kama) and Shmuel Paskins like Rebbi. So, let's say that Rav's opinion here is like the Chachumim there (just as it becomes into the possession of the one you entrusted it to in order to obligate in paying, it's also in his possession to have his T'chum), and Shmuel here is like Rebbi. (Just as he holds he never gets it in his possession to obligate paying for it, it doesn't get his T'chum either.)

The Gemara rejects this correlation: Rav could say back; I could have held like Rebbi. After all, over there, Rebbi held that, without any stipulation, the courtyard's owner doesn't accept to guard it. However, in our case, he explicitly accepted to guard the fruits. Shmuel could say back; I can even hold like the Rabanan. After all, there, someone wants to give over his ox to be in the courtyard's owner's possession so that he'll be exempt if it goes. However, in our case by T'chumin, does someone really want to give his fruit over so it should be in someone else's possession (so that it should have the other person's T'chum)?

The Gemara asks: our Mishna says; if the owner makes an Eiruv, the fruit has his T'chum. If we say that it gets the T'chum of the one he gave it to guard, what does it help if he made an Eiruv? (After all, it doesn't get his T'chum anyhow.)

**Tosfos Yeshanim is bothered by the question: why couldn't we imply this from the first part of the Mishna, that if the people of that city made an Eiruv, they can't bring it to him. This shows that it has the T'chum of the owner and not the one who's guarding it.**

**Tosfos Yeshanim answers: it's possible that it's only referring to other people in the city and not to the one who's guarding the object.**

R' Huna quotes the Beis Medrish of Rav to answer: we refer to a case where the guard designated a corner for him to keep his item there (thus, it remains in his T'chum. However, if he completely hands over to the guard, then it gets the guard's T'chum.)

The Gemara brings another proof from the Mishna: Someone who invited guests, they can't carry portions with them back to their house (if it's out of the T'chum, and they came by Eiruv) unless they had someone acquire them for the guests before Yom Tov. If you say that it anyhow gets the T'chum of the one watching it, what does it help to have someone acquire them for him? (After all, it's in the guard's possession to watch.)

The Gemara answers: since he had someone acquire it for him, it has the same status as designating a corner for him. Alternatively, (even if it's not essentially the same status of designating a corner) acquiring for him is different (since you did an action to allow him to carry it home, it's obvious you want the portions to have his T'chum).

R' Chan b. Chanalai (who lived in a different town, and he had to come by Eiruv) had his meat tied to the door's bar. He came to ask R' Huna (supposedly if he can carry it to his house, i.e., if it gets his own T'chum or not). R' Huna said: if he hung it up, he may take it home. If others hung it, he may not bring it home. The Gemara asks: even if he hung it up, why can he take it home? After all, R' Huna was a student of Rav who holds that it still has the T'chum of the one he left it by to guard. The Gemara answers: hanging it on the door is as good as having a corner designated for his items (since he never gave it to someone to guard).

R' Hillel asked R' Ashi: even if others hung it for him, why can't he bring it home? Didn't Shmuel Paskin that meat from an ox fattener gets the T'chum of anyone who buys it (since he intends to give it to whoever will buy it, here too, whoever hung it up for R' Chana intends it for it to have his T'chum.) Raveina asked a similar question to R' Ashi: why, if they hung it for him, he can't bring it? Didn't R' Yochanan Paskin like R' Dosa (that if there is only one shepherd that we know will get handed the animals, they have his T'chum. So, we know this is for R' Chana, so why shouldn't it not get his T'chum?) R' Ashi asked R' Kahana: even if others hung it for him, why can't he bring it home? After all, we say that animals and utensils get the T'chum of the owners.

Rather, we must say that (this is a different concern) that since R' Chana was a great man and always busy learning. Therefore, if he hung it up himself, we assume he didn't forget about it and remembers the sign he put in it to show it's the original piece, so he may take it. If he didn't, then we say he forgot about it and may not take it (since R' Huna was a student of Rav who held that meat that wasn't watched is prohibited).

## **New Sugya**

You can't give to drink and Shecht your herd that dwells in the wilderness (since they're Muktzah, because you don't expect to have it available for you), but you can give to drink and Shecht the ones that live by your

house. These are classified as the ones that live by your house: those who come in from the pasture to sleep in the town. These are classified as the ones that live in the wilderness: those who sleep in the pastures.

The Gemara asks: why must it say that you give to drink and Shecht? (Just say you can Shecht.) The Gemara answers: it tells us an unrelated fact, that someone should give his animal to drink before Shechting them, so that they can skin them easier.

The Braisa says: these are the ones of the wilderness: all that leave by Pesach and grazes in the pasture, and they return by the first rains. These are the ones that live by the houses: they go graze in the morning outside the T'chum and came back to sleep within the T'chum. Rebbi says that both have the status of ones by the houses. However, the ones of the wilderness graze in the pasture and don't return, not in the winter or the summer.

The Gemara asks: does Rebbi hold of Muktzta (that he defines what are ones of the wilderness that are Muktzta)? After all, R' Shimon b. Rebbi asked him if R' Shimon holds that unripen dates (that were put in palm containers to ripen) are Muktzta or not (when they become ripe on Shabbos)? Rebbi answered: R' Shimon doesn't hold anything is Muktzta but raisins and dry figs (that you made them unfit in the meanwhile by placing them in the sun). [So, he seems to agree with R' Shimon who doesn't hold of Muktzta.]

**Tosfos quotes Rashi: we refer to dates that never get ripe on the trees. So, they make containers from palms and put them in it where they will ripen. The Gemara inquires whether you can eat from it on Yom Tov.**

**Tosfos disagrees, since this doesn't seem to be the definition of "Patzeilai Tamara." Rather, Tosfos explains: they're unripen dates, but they'll eventually ripen and be fit to eat. However, it didn't ripen yet and you cut them in half with a knife and bring them up to the roof to dry out. This is not similar to raisins and dried figs, since you didn't make them unfit (like you made the grapes and figs unfit when they start drying out) since they were never originally fit.**

#### **Daf 40b**

The Gemara answers: these animals of the wilderness (are so removed from you) they receive the status of Muktzta just like raisins and dry figs are Muktzta. Alternatively, Rebbi was only answering the inquiry about R' Shimon's opinion, but he didn't hold of it. Alternatively, we can say Rebbi (in the Braisa with the animals) just was commenting on the Rabanan's opinion. He's saying "personally, I don't hold of Muktzta. However, to you who hold of it, at least agree to me that those animals that graze in the pasture from Pesach until the first rain are classified as house animals (and are not Muktzta)." To which the Rabanan replied: no, they're classified as ones from the wilderness (and are Muktzta).

## **Hadran**