

**A** בס"ד

Intro

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

The Mishnah's Halachah of

המקבל שדה מחבירו

והיא בית השלחין

If a person leased someone's dry field that needs extra watering, and it had a well from which the worker would benefit;

יבש המעין

אינו מנכה לו מן חכורו

If the well dried up, the worker must pay the owner the full price of חכירו, and he does not subtract his loss.

שמה בעלמא אמרי לך

The cases of fields that were named for certain benefits; the owner may claim he sold them only for the name, but did not guarantee that they actually have the benefit.

The Mishnah's Halachah

המקבל שדה מחבירו והובירה

שמין אותה כמה ראויה לעשות ונותן לו

If a person leased someone's field, but he did not work it and left the field fallow, we assess the amount the field would have produced, and he must pay the agreed percentage of this amount to the owner,

**B** because

שכך כותב לו אם אוביר ולא אעביד  
אשלם במיטבא

The worker writes in the contract, even if I don't work and leave the field fallow, I will pay you in full.

As Rashi explains, the Halachah of אותה, שמין, applies only to קבלנות, where the owner gets a percentage; but regarding חכירות, where the worker pays the owner a set amount, there's no need to assess, he pays the owner the agreed set amount regardless of whether he worked or not.

The Gemara mentions several other examples of

דורש לשון הדיוט

The חכמים issued their rulings based on the wording that people are accustomed to write.

אסמכתא לא קניא

If one commits for a matter and takes on a steep penalty, we assume that he was not sincere and though that this would never come about, and such a commitment is not binding.

**A**

המקבל שדה מחבירו  
והיא בית השלחין

יבש המעין  
אינו מנכה לו מן חכורו

שמה בעלמא  
אמרי לך

המקבל שדה מחבירו  
והובירה  
שמין אותה  
כמה ראויה לעשות  
ונותן לו

**B**

שכך כותב לו  
אם אוביר ולא אעביד  
אשלם במיטבא

דורש לשון הדיוט

אסמכתא  
לא קניא

1 So let's review ...

Zugt Di Mishnah

המקבל שדה מחבירו  
והיא בית השלחין

If a person leased someone's dry field that needs extra watering, and it had a well from which the worker would benefit.

או בית האילן

OR it was a field that also had fruit trees, from which the worker would benefit.

יבש המעין ונקצץ האילן

אינו מנכה לו מן חכורו

If the well dried up, or the tree was cut down, the worker must pay the owner the full price of חכירות, and he does not subtract his loss, because as Rashi explains

דמעיקרא לא גלי דעתיה

דמשום מעין או אילן טפי לה בחיכורתה

Since he did not specify beforehand that he's paying more because of the well or the tree, they were not included in the rental.

However,

אם אמר לו חכור לי שדה בית השלחין זו

או שדה בית האילן זה

If the worker did specify, rent me your field with the well, or your field with the fruit tree;

יבש המעין ונקצץ האילן

מנכה לו מן חכורו

If the well dried up, or the tree was cut down, the worker does subtract his loss from the price of חכירות, because since he did specify beforehand, the well and tree were included in the rental.

1

מלך

המקבל שדה מחבירו  
והיא בית השלחין

If a person leased a dry field that needs extra watering, and it had a well from which the worker would benefit.

או בית האילן

OR it was a field that also had fruit trees, from which the worker would benefit.

יבש המעין ונקצץ האילן  
אינו מנכה לו מן חכורו

If the well dried up, or the tree was cut down, the worker must pay the owner the full price of חכירות, and he does not subtract his loss,

*As Rashi explains*

דמעיקרא לא גלי דעתיה

דמשום מעין או אילן טפי לה בחיכורתה

*Since he did not specify beforehand that he's paying more because of the well or the tree, they were not included in the rental.*

אם אמר לו

חכור לי שדה בית השלחין זו  
או שדה בית האילן זה

If the worker did specify, rent me your field with the well, or your field with the fruit tree;

יבש המעין ונקצץ האילן  
מנכה לו מן חכורו

If the well dried up, or the tree was cut down, the worker does subtract his loss from the price of חכירות, because since he did specify beforehand, the well and tree were included in the rental.

**2** The Gemara asks  
 ואמאי לימא ליה שמא בעלמא אמרי לך  
 Why does the worker subtract this loss? The owner can claim that when you specified שדה בית השלחין זו, I rented you a field that goes by this name, but I did guarantee that the field has a well?  
 As the Braisa says  
 האומר לחבירו בית כור עפר אני מוכר לך  
 אע"פ שאין בו אלא לתך הגיעו  
 שלא מכר לו אלא שמא  
 והוא דמתקרי בית כור  
 If a person told someone, "I am selling you a field the size of a כור, thirty, סאה, the owner may give him a smaller field even the size of a לתך, fifteen, סאה, if it was called a בית כור, because he only sold him the field that goes by this name, not a field with this actual size?

**2**

?

**ואמאי  
 לימא ליה  
 שמא בעלמא אמרי לך**

*Why does the worker subtract this loss?  
 The owner can claim  
 that when you specified - שדה בית השלחין זו - I rented you a field that goes by this name,  
 but I did guarantee that it has a well?*

כינתא

**האומר לחבירו בית כור עפר אני מוכר לך  
 אע"פ שאין בו אלא לתך הגיעו  
 שלא מכר לו אלא שמא  
 והוא דמתקרי בית כור**

*If a person told someone,  
 "I am selling you a field the size of a כור - thirty, סאה,  
 the owner may give him a smaller field  
 even the size of a לתך - fifteen, סאה - if it was called a בית כור,  
 because  
 he only sold him the field that goes by this name  
 not a field with this actual size?*

**3** The Gemara offers two answers:  
 1.  
 שמואל explains it depends:  
 The Braisa's Halachah applies to a case of  
 אמר ליה מחכיר לחוכר  
 שמא בעלמא א"ל  
 ואינו מנכה לו מן חכורו  
 If the owner mentioned the benefit of the well to the worker, he intends merely for the field that goes by this name, but the actual well is not included in the rental.  
 While the Mishnah refers to a case of  
 אמר ליה חוכר למחכיר  
 קפידא  
 ומנכה לו מן חכורו  
 If the worker mentioned the benefit of the well to the owner, he is particular about well, and the actual well is included in the rental.

**3**

שמואל

1

*The Mishnah refers  
 to a case of*

**אמר ליה חוכר למחכיר  
 קפידא  
 ומנכה לו מן חכורו**

*If the worker mentioned the  
 benefit of the well to the  
 owner, he is particular about  
 well, and the actual well is  
 included in the rental.*

*The Braisa's Halachah  
 applies to a case of*

**אמר ליה מחכיר לחוכר  
 שמא בעלמא א"ל  
 ואינו מנכה לו מן חכורו**

*If the owner mentioned the  
 benefit of the well to the  
 worker, he intends merely for  
 the field that goes by this  
 name, but the actual well is  
 not included in the rental.*

4 2.  
 דא"ל מחכיר לחוכר  
 And even so  
 מנכה לו מן חכורו  
 Because  
 מדקאמר זה מכלל דקאי בגוה עסקינן  
 It is obvious that the owner was standing in the field, as he stated this field. If so why did he also mention בית השלחין?  
 It must be he meant to say  
 בית השלחין  
 כדקיימא השתא  
 The rental was for this type of field that does have a well.  
 =====

4 2  
 רבינא  
 The Mishnah refers even to a case of  
 דא"ל מחכיר לחוכר  
 And even so  
 מנכה לו מן חכורו  
 Because  
 מדקאמר זה מכלל דקאי בגוה עסקינן  
 It is obvious that the owner was standing in the field,  
 as he stated this field.  
 If so why did he also mention בית השלחין?  
 It must be he meant to say  
 בית השלחין  
 כדקיימא השתא  
 The rental was for this type of field  
 that does have a well.

5 Zugt Di Mishnah  
 המקבל שדה מחבירו והובירה  
 שמין אותה כמה ראויה לעשות ונותן לו  
 If a person leased someone's field, but did not work it, he left it fallow, we assess the amount the field would have produced, and he must pay the agreed upon share of this amount to the owner, because  
 שכך כותב לו אם אוביר ולא אעביד  
 אשלם במיטבא  
 The worker writes in the contract, even if I don't work the field and it remains fallow, I will pay you in full.

As Rashi explains, the Halachah of שמין אותה, applies only to קבלנות, where the owner gets a percentage; but regarding חכירות, where the worker pays the owner a set amount, there's no need to assess, he pays the owner the agreed set amount regardless of whether he worked or not.

5 4א  
 המקבל שדה מחבירו  
 והובירה  
 שמין אותה כמה ראויה לעשות  
 ונותן לו  
 If a person leased someone's field,  
 but did not work it, he left it fallow,  
 we assess the amount the field would have  
 produced, and he must pay the agreed upon share  
 of this amount to the owner,  
 Because...  
 שכך כותב לו אם אוביר ולא אעביד  
 אשלם במיטבא  
 The worker writes in the contract,  
 even if I don't work the field and it remains fallow,  
 I will pay you in full.  
 As Rashi explains  
 The Halachah of שמין אותה, applies only to קבלנות,  
 where the owner gets a percentage;  
 But regarding חכירות,  
 where the worker pays the owner a set amount, there's no  
 need to assess, he pays the owner the agreed set amount  
 regardless of whether he worked or not.

6 The Gemara proceeds with several other examples of דורש לשון הדיוט  
The חכמים issued their rulings based on the wording that people are accustomed to write.

1.  
אם אוביר ולא אעביד  
אשלם במיטבא

2.  
אדם מביא קרבן עשיר על אשתו  
וכן כל קרבן וקרבן שהיא חייבת  
The husband is obligated to bring his wife's Korbanos because  
שכך כותב לה  
אחריות דאית לך עלי מן קדמת דנא  
They would write in the Kesubah that the husband accepts upon himself all her previous obligations of Korbanos.

3.  
אנשי אלכסנדריא היו מקדשין את נשותיהם  
ובשעת כניסתן לחופה  
באין אחרים וחוטפים אותם מהן  
In Alexandria, a person would give a woman Kiddushin, and then during the Chupah others would abduct the bride, and marry her, even though she was already a אשת איש.  
הלל however ruled that the children of the second husband are not Mamzerim, because they would write in their Kesubos  
לכשתכנסי לחופה הוי לי לאינתו  
The Kiddushin shall take effect only if and when the Chupah is performed, and since Chupah was not performed, she was never a אשת איש.

6  
*Several examples of*  
**דורש לשון הדיוט**  
*Rulings based on wording that people are accustomed to write.*

1

**אם אוביר ולא אעביד  
אשלם במיטבא**

2

*רבי ירמיה*

**אדם מביא קרבן עשיר על אשתו  
וכן כל קרבן וקרבן שהיא חייבת**

*The husband is obligated to bring his wife's Korbanos*

*לכך כותב לה*

**אחריות דאית לך עלי מן קדמת דנא**

*They would write in the Kesubah that the husband accepts upon himself all her previous obligations of Korbanos.*

3

**אנשי אלכסנדריא  
היו מקדשין את נשותיהם  
ובשעת כניסתן לחופה  
באין אחרים וחוטפים אותם מהן**

*הלל however ruled ...*

*The children of the second husband are not Mamzerim, because they would write in their Kesubos*

**לכשתכנסי לחופה הוי לי לאינתו**

*The Kiddushin shall take effect only if and when the Chupah is performed.*

7

4.  
 המלוה את חבירו לא ימשכנו יותר מחובו  
 The lender may not take a security item worth more than the loan, because  
 שכך כותב לו תשלומתא דאית לך עלי  
 כל קבל דיכי  
 If the מלוה returns the משכון, he can later collect the complete security item for the loan, and the מלוה would be collecting more than he is entitled to.

5.  
 מרימר מוגבי נמי שבתא  
 מקום שנהגו לעשות כתובה מלוה גובה מלוה  
 In places where the wife's נדוניא assets, are written into the Kesubah as a loan to the חתן, the חתן may initially collect all these assets as a לוח ליה does from her father.  
 לכפול גובה מחצה  
 In places where the articles of the נדוניא were assessed and written for twice their worth, the חתן collects only half the amount from her father.

However,  
 מרימר מוגבי נמי שבתא  
 מרימר would allow the חתן to collect the complete amount, if  
 דקני מיניה  
 The חתן and the father performed a קנין.  
 =====

7

4  
 רבי יפולץ בן קרחה  
**המלוה את חבירו לא ימשכנו יותר מחובו**  
 The lender may not take a security item worth more than the loan, because

לכך כותב לו  
**תשלומתא דאית לך עלי כל קבל דיכי**  
 If the מלוה returns the משכון, he can later collect the complete security item for the loan, and the מלוה would be collecting more than he is entitled to.

5  
 רבי יוסי  
**מקום שנהגו לעשות כתובה מלוה גובה מלוה**

In places where the wife's נדוניא assets, are written into the Kesubah as a loan to the חתן, the חתן may initially collect all these assets as a לוח ליה does from her father.

**לכפול – גובה מחצה**  
 In places where the articles of the נדוניא were assessed and written for twice their worth, the חתן collects only half the amount from her father.

However,  
 מרימר – מוגבי נמי שבתא  
 מרימר would allow the חתן to collect the complete amount, if  
**דקני מיניה**  
 The חתן and the father performed a קנין.

8 The Gemara proceeds with an incident of a worker who told the owner of the field  
 אי מוברנא לה יהיבנא לך אלפא זוזי  
 If I don't work your field, I shall pay you a penalty of 1000  
 זוז.  
 However,  
 אוביר תילתא  
 He merely did not work in one-third of the field.  
 The נהרדעי said  
 דינא הוא דיהיב ליה  
 תלת מאה ותלתין ותלתא ותילתא  
 The worker must pay the owner one third of the 1000 זוז.

רבא disagreed and said the worker does not pay anything,  
 because  
 כיון דקאמר מילתא יתירתא  
 גוזמא בעלמא הוא דקגזים  
 אסמכתא היא  
 Since he committed to such a steep penalty, we assume  
 that he was not sincere and though that this would never  
 come about, and  
 ואסמכתא לא קניא  
 Such a commitment is not binding.

However, in the Mishnah's case  
 אם אוביר ולא אעביד  
 אשלם במיטבא  
 He must pay, because  
 דלא קא גזים  
 לאו אסמכתא היא  
 He committed only to reimburse the owner's loss, and we  
 assume that he was sincere.

8

*A worker who told the owner of the field*  
**אי מוברנא לה**  
**יהיבנא לך אלפא זוזי**  
*If I don't work your field,*  
*I shall pay you a penalty of 1000 זוז.*

*However,*  
**אוביר תילתא**  
*He merely did not work in one-third of the field.*

*נהרדעי*  
**דינא הוא**  
**דיהיב ליה תלת מאה ותלתין**  
**ותלתא ותילתא**  
*The worker must pay the owner one third of the 1000 זוז.*

*רבא*  
**כיון דקאמר מילתא יתירתא**  
**גוזמא בעלמא הוא דקגזים**  
**אסמכתא היא**  
*Since he committed to such a steep penalty,*  
*we assume that he was not sincere*  
*and though that this would never come about, and*  
**ואסמכתא לא קניא**  
*Such a commitment is not binding.*

*However, in the Mishnah's case*  
**אם אוביר ולא אעביד**  
**אשלם במיטבא**  
*He must pay...*  
*because*  
**דלא קא גזים**  
**לאו אסמכתא היא**  
*He committed only to reimburse the owner's loss,*  
*and we assume that he was sincere.*