

A ד"ט

Intro

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

ואלו חייב להכריז

The Mishnah lists found items that must be announced in order to locate the rightful owner, because

יש בהם סימן

ולא מיאש

The owner did not give up hope for these items because they have an obvious identifying mark, and the item still belongs to him.

The contradiction regarding

מצא כלי ולפניו פירות

If a person found fruit lying next to the utensil that has a סימן, does the finder return the fruit to the owner of the utensil or not.

A

ואלו חייב להכריז

יש בהם סימן
ולא מיאש

מצא כלי
ולפניו פירות

B אין סימן למטבע

A סימן on a coin does not indicate that it's his, because the original owner might have paid it to someone and the recipient is the one who dropped it.

However, if the coins were arranged in a unusual way such as

שלשה מטבעות

זה על גב זה

Three coins piled one upon the other, this is a proof that it was דרך הינוח, the owner put them down in this way intentionally, and is able to claim them with the סימן of their arrangement. Therefore he was not מייאש.

The Machlokes regarding זה על גב זה;

זה רב חנינא holds that he must return them only when

דעשויין כמגדלין

Only if the coins were of different sizes and were piled as a tower;

While רבי יוחנן holds

אפילו זה על גב זה

Even if the coins were of one size, and piled directly one on the other, the finder must return them.

B

אין סימן למטבע

שלשה מטבעות
זה על גב זה

דעשויין כמגדלין

אפילו זה על גב זה



C כל ספק הינוח
If a person finds an item, and it was questionable whether it was lost or purposely put there;
לכתחילה לא יטול
He should not take the item initially even to return it, because it was put there intentionally, and since it has no סימן, the owner will not be able to claim it.
ואם נטל לא יחזיר
But if he did take the item, he does not have to return it to those who claim it, because it has no סימן.

The contradiction regarding
מצא כלי באשפה
If a person finds a utensil hidden in a garbage pile, is this considered an אבידה that one must return, or not.

C

כל ספק הינוח
לכתחילה לא יטול
ואם נטל לא יחזיר

מצא כלי באשפה



1 So let's review ...

Zugt Di Mishnah

ואלו חייב להכריז

The following lost items must be announced in order to locate the rightful owner and the finder may not keep them, because

יש בהם סימן

ולא מיאש

The owner did not give up hope, because they have an obvious identifying mark.

מצא פירות בכלי

או כלי כמות שהוא

If he found fruit in a utensil, or an empty utensil, and as Rashi adds;

וסתם כלי יש בו סימן

Generally, a utensil has a סימן;

OR

מעות בכיס

או כיס כמות שהוא

He found money in a purse, or an empty purse, and the purse has a סימן;

צבורי פירות

צבורי מעות

He found piles of fruit or money, as the Gemara explains either

מנין הוא סימן

The number of piles is considered the סימן, or

מקום הוא סימן

The location of the piles is considered the סימן.

=====

1

ואלו חייב להכריז

Because

יש בהם סימן - ולא מיאש

The owner did not give up hope, because they have an obvious identifying mark.



מצא פירות בכלי או כלי כמות שהוא



מעות בכיס או כיס כמות שהוא



צבורי פירות - צבורי מעות

מקום כפי סימן
The location of the piles
is considered the סימן

מנין כפי סימן
The number of piles
is considered the סימן

2 Regarding
מצא פירות בכלי
And
מעות בכיס

The Gemara says

טעמא דמצא פירות בכלי ומעות בכיס

He's only חייב להכריז if the fruit and money were actually inside the utensil or purse, because they are considered one item that has a סימן.

הא כלי ולפניו פירות

כיס ולפניו מעות

הרי אלו שלו

However, if the fruit or money was lying next to the utensil or purse, the finder may keep the fruit or money that has no סימן, and he returns only the כלי that does have a סימן, because they are considered two separate items;

and as Rashi explains

לא אמרינן מהאי נפל

We don't assume that the fruit or money were initially in the utensil and then fell out; as the Braisa rules

מצא כלי ולפניו פירות

כיס ולפניו מעות

הרי אלו שלו

However,

מקצתן בכלי ומקצתן על גבי קרקע

מקצתן בכיס ומקצתן על גבי קרקע

חייב להכריז

If some of the fruit or money was inside the כלי and some outside the כלי, he must return ALL the fruit together with the כלי, because, as Rashi explains

הדבר מוכיח דהנך דעל גבי קרקע דהנך הוא

It is obvious that all the fruits were initially in the כלי, but then some fell out.

2



מצא פירות בכלי - מעות בכיס

טעמא דמצא פירות בכלי ומעות בכיס

He's only חייב להכריז if the fruit and money were actually inside the utensil or purse, because they are considered one item with a סימן.

הא

כלי ולפניו פירות - כיס ולפניו מעות
הרי אלו שלו



The finder may keep the fruit or money that has no סימן, and he returns only the כלי that does have a סימן, because they are considered two separate items.

As Rashi explains

לח אמרינן מהאי נפל

We don't assume that the fruit or money were initially in the utensil and then fell out.

However,

מקצתן בכלי ומקצתן על גבי קרקע
מקצתן בכיס ומקצתן על גבי קרקע
חייב להכריז

If some of the fruit or money was inside the כלי and some outside the כלי, he must return all the fruit together with the כלי.

As Rashi explains

הדבר מוכיח דהנך דעל גבי קרקע דהנך הוא

It is obvious that all the fruit were initially in the כלי, but then some fell out.

3 The Gemara questions this from a contradicting Braisa
 מצא דבר שאין בו סימן
 בצד דבר שיש בו סימן
 חייב להכריז
 If someone found two items next to each other, one item had no סימן, while the other item did have a סימן, such as fruit next to a כלי, he must announce ALL his findings.
 בא בעל סימן ונטל את שלו
 זכה הלה בדבר שאין בו סימן
 If a person only claimed the item with a סימן, the finder may keep the other item with no סימן, but if a person claimed both items, the finder must return them both to him. Apparently, because
 אמרינן מהאי נפל
 We do assume that the fruits were initially in the כלי with the סימן, and then they fell out, and they are considered one item?

The Gemara offers several explanations

1.

זביד רב says

הא בכובא וכיתנא

The first Braisa refers to flax or money next to a כלי or כיס; and

הרי אלו שלו

Because as Rashi explains

לא משרקי

These items usually don't all fall out at once.

Therefore, since there was nothing left inside, we assume that they were not initially inside the כלי, because

אי מינה נפל הוה משתייר בה

If they were initially inside, some would have remained inside.

However,

הא בצנא ופירי

The second Braisa refers to fruit next to a basket; and

חייב להכריז

Because

דעבידי דשרקי

These items usually do fall out at once. Therefore

אמרינן מהאי נפל

We assume that they were all inside, and then they all fell out.

3



בצד דבר
שיש בו סימן

מצא דבר
שאין בו סימן

חייב להכריז

He must announce all his findings

**בא בעל סימן ונטל את שלו
זכה הלה בדבר שאין בו סימן**

If a person only claimed the item with a סימן, the finder may keep the other item with no סימן,

but if a person claimed both items, the finder must return them both to him.

Because

אמרינן מהאי נפל

We do assume that the fruits were initially in the כלי with the סימן, and then they fell out, and they are considered one item!



הא בצנא ופירי

The second Braisa refers to fruit next to a basket; and

חייב להכריז

Because these items usually do fall out at once.

Therefore

We assume that they were all inside, and then they all fell out.

הא בכובא וכיתנא

The first Braisa refers to flax or money next to a כלי or כיס;

הרי אלו שלו

Because these items usually don't all fall out at once.

Therefore, since there was nothing left inside, we assume that they were not initially inside the כלי, because

*אי מינה נפל הוה משתייר בה
If they were initially inside, some would have remained.*

4

2.
 הא דלא אשת"י בה, כלי ויהא בצנא ופירי
 Perhaps both Breisos refer to fruit next to a כלי; however
 הא דאשת"י בה מידי
 The second Braisa refers to where some fruits remained
 in the כלי; and
 חייב להכריז
 Because
 אמרינן מהאי נפל
 However, הא דלא אשת"י בה,
 The first Braisa refers to where no fruits remained in the
 כלי; and
 הרי אלו שלו
 Even though עבידי דשרקי, because as Rashi explains
 סתם צנא יש לו אוגנין כפולים לתוכו
 A basket usually has a rim, and some fruits would have
 been trapped inside. Therefore
 לא אמרינן מהאי נפל

4

2

רב ספא

הא דלא אשת"י בה

Perhaps both Breisos refer to fruit next to a כלי;
 However...

הא דאשת"י בה
 מידי

The second Braisa refers to
 where some fruits
 remained in the כלי; and

חייב להכריז

Because
 אמרינן מהאי נפל

הא דלא אשת"י
 בה

The first Braisa refers to
 where no fruits remained
 in the כלי; and

הרי אלו שלו

Even though

עבידי דשרקי,

As Rashi explains

סתם צנא יש לו אוגנין
 כפולים לתוכו
 A basket usually has a rim,
 and some fruits would have
 been trapped inside.

Therefore

לא אמרינן מהאי נפל

5

3.
 OR
 הא דלא אשת"י בה מידי
 Perhaps in both Breisos no fruit remained in the כלי;
 however, we make the following distinction;
 הא דמהדרי אפיה לגבי פירי
 The second Braisa refers to where the opening of the כלי
 was facing the fruits. Therefore,
 חייב להכריז
 אמרינן מהאי נפל
 However
 הא דלא מהדרי אפיה לגבי פירי
 The first Braisa refers to where the opening of the כלי was
 not facing the fruits. Therefore,
 הרי אלו שלו
 לא אמרינן מהאי נפל

5

3

הא דלא אשת"י בה מידי

Perhaps in both Breisos no fruit remained in the כלי;
 However...



הא דמהדרי אפיה
 לגבי פירי

The second Braisa refers to
 where the opening of the כלי
 was facing the fruits.

Therefore,

חייב להכריז

אמרינן מהאי נפל



הא דלא מהדרי אפיה
 לגבי פירי

The first Braisa refers to where
 the opening of the כלי was not
 facing the fruits.

Therefore,

הרי אלו שלו

לא אמרינן מהאי נפל

6 4.
OR
הא והא דמהדרי אפיה לגבי פירי
Perhaps in both Breisos the כלי was facing the fruits, and
הא דאית לה אוגנין לצנא
The first Braisa refers to where the basket did have a rim;
and
הרי אלו שלו
דלא אמרינן מהאי נפל
However,
הא דלית לה אוגנין לצנא
The second Braisa refers to where the basket did not have
a rim; and
חייב להכריז
דאמרינן מהאי נפל
=====

6 4

הא והא דמהדרי אפיה לגבי פירי
Perhaps in both Breisos the כלי was facing the fruits
However...



הא דלית לה אוגנין לצנא
The second Braisa refers to where the basket did not have a rim; and
חייב להכריז דאמרינן מהאי נפל

הא דאית לה אוגנין לצנא
The first Braisa refers to where the basket did have a rim; and
הרי אלו שלו דלא אמרינן מהאי נפל

7 The Mishnah continues
שלשה מטבעות
זה על גב זה
חייב להכריז
If someone found three coins piled one upon the other, he
must return them, because this indicates that it was דרך
הינוח, the owner purposely put them down in this way, and
is able to claim them with the סימן of their arrangement.
Therefore, he was not מייאש.
However, if the coins were piled randomly, even if the
actual coin has a סימן
הרי אלו שלו
Because
אין סימן למטבע
A סימן on a coin does not indicate that it's his, because the
original owner might have paid it to someone and the
recipient is the one who lost it.

7

שלשה מטבעות זה על גב זה חייב להכריז



If someone found three coins piled one upon the other, he must return them, because this indicates that it was דרך הינוח, the owner purposely put them down in this way, and is able to claim their arrangement as a סימן. Therefore, he was not מייאש.

However, if the coins were piled randomly, even if the actual coin has a סימן

הרי אלו שלו
Because
אין סימן למטבע



A סימן on a coin does not indicate that it's his, because the original owner might have paid it to someone and the recipient is the one who lost it.

8 The Gemara cites a Machlokes regarding זה על גב זה

רבי חנינא says
לא שנו אלא של מלך אחד כעין שלשה מלכים
דעשוין כמגדלין
Only if the coins were of different sizes and were piled like a tower, in that
רויחא תתאה
ומציעא עילויה
זוטא עילויה מציעא
The widest coin at the bottom, a narrower coin in the middle, and the narrowest coin on the top; and
חייב להכריז
Because
דרך הינוח הוה
This arrangement will only happen if the owner placed them down deliberately, and will claim them with this סימן.

8



רב חנינא
לא שנו אלא של מלך אחד
כעין שלשה מלכים
דעשוין כמגדלין

Only if the coins were of different sizes and were piled like a tower,

רויחא תתאה - ומציעא עילויה - זוטא עילויה מציעא
The widest coin at the bottom, a narrower coin in the middle, and the narrowest coin on the top; and

חייב להכריז

Because

דרך הינוח הוה

This arrangement will only happen if the owner placed them down deliberately, and will claim them with this סימן.

9 However
של מלך אחד דכולהו ניהו
If the coins were of one size, and were piled one directly upon the other,

הרי אלו שלו
Because
אימר אתרמווי ובהדי הדדי נפול
It can happen that they all fell together this way coincidentally, and the owner cannot claim them with this סימן because he does not know that they fell this way.

רבי יוחנן disagrees and says
אפילו של מלך אחד נמי מכריז
Even if the coins were of one size and piled directly one upon the other,

חייב להכריז
Because
דלא איתרמי דנפול הכי
Even in this arrangement cannot happen coincidentally; it must have been placed this way deliberately, and the owner will claim them with this סימן.

The Gemara discusses several other positions of coins, whether we consider them דרך הינוח or דרך נפילה.
=====

9



However
של מלך אחד דכולהו
הדדי ניהו

If the coins were of one size, and were piled one directly upon the other,

הרי אלו שלו

Because

אימר אתרמווי ובהדי הדדי נפול

It can happen that they all fell this way coincidentally, and the owner cannot claim them with this סימן because he does not know that they fell this way.

רבי יוחנן

אפילו של מלך אחד נמי מכריז

Even if the coins were of one size and piled directly one upon the other - חייב להכריז

Because

דלא איתרמי דנפול הכי

Even in this arrangement cannot happen coincidentally; it must have been placed this way deliberately, and the owner will claim them with this סימן.



10 The Mishnah continues with additional found items that must be returned:

כריכות ברה"י

Bundles with a סימן, in a private area;

וככרות של בעה"ב

Loaves of a private person that are unique, even in a רשות הרבים, public area.

וגיזי צמר הלקוחין מבית האומן

Rolls of processed wool from a craftsman that are unique.

כדי יין וכדי שמן

Jugs of wine or oil, as the Gemara in Daf כ"ג explained

ברשום

They were sealed with a unique stopper.

הרי אלו חייב להכריז

These items must be announced and returned, because they all have a סימן.

=====

Zugt Di Mishnah

מצא אחר הגפה או אחר הגדר גוזלות מקושרים

If a person found birds tied up, behind a wall of wood or reeds,

או בשבילין שבשדות

Or he found them on the trail in the fields

הרי זה לא יגע בהן

He should not take the birds, even if he intends to return them, because as the Gemara explains

דאמרינן הני אינש אצנעינהו

ואי שקיל להו לית להו למרייהו סימנא בגווייהו

It is possible that the owner hid them there intentionally, and if the finder were to take them, the owner would not be able to claim them because they have no סימן.

=====

10

מלאכה

כריכות ברה"י

Bundles with a סימן, in a private area;

וככרות של בעה"ב

Loaves of a private person that are unique, even in a רשות הרבים.

וגיזי צמר הלקוחין מבית האומן

Rolls of processed wool from a craftsman that are unique.

כדי יין וכדי שמן

Jugs of wine or oil, as the Gemara in Daf כ"ג explained - ברשום -

They were sealed with a unique stopper.

הרי אלו חייב להכריז

מלאכה

מצא אחר הגפה או אחר הגדר

גוזלות מקושרים

If a person found birds tied up, behind a wall of wood or reeds,

או בשבילין שבשדות

Or he found them on the trail in the fields

הרי זה לא יגע בהן

He should not take the birds, even if he intends to return them, because

**דאמרינן הני אינש אצנעינהו
ואי שקיל להו לית להו למרייהו
סימנא בגווייהו**

It is possible that the owner hid them intentionally, and if the finder were to take them, the owner would not be able to claim them because they have no סימן.



11 The Mishnah continues
 מצא כלי באשפה
 If someone finds a utensil in a garbage pile, it depends;
 אם מכוסה לא יגע בו
 If the item was hidden, he should not take them, because
 as Rashi explains
 דאין זו אבידה
 דמשתמר הוא
 The item is not considered lost, because it's protected.
 אם מגולה נוטל ומכריז
 If the item was not hidden, he should announce it, because
 זו אבידה
 The item is considered lost, because it's not protected.

11 משנה

מצא כלי באשפה
 If someone finds a utensil in a garbage pile, it depends;
אם מכוסה לא יגע בו
 If the item was hidden, he should not take them, because...

as Rashi explains
 דאין זו אבידה דמשתמר הוא
 The item is not considered lost,
 because it's protected.

אם מגולה נוטל ומכריז
 If the item was not hidden, he should announce it,
 because
זו אבידה
 The item is considered lost,
 because it is not protected.

12 The Gemara questions this from a contradicting Braisa;
 מצא כלי טמון באשפה
 נוטל ומכריז
 Even if the item was hidden, it is considered an אבידה and
 he must announce it?

The Gemara offers two explanations

1.
 רב זביד says the Mishnah refers to
 בכובי וכסי
 לא יגע
 He should not take a large object such as a hat or a glass,
 because we assume that the owner hid them there
 purposely.

While the Braisa refers to
 בסכיני והמניק
 נוטל ומכריז
 He should take a small object such as a knife and return it,
 because we assume that the owner threw them out
 accidentally.

12

?

מצא כלי טמון באשפה
נוטל ומכריז

*Even if the item was hidden,
 it is considered an אבידה and he must announce it?*

רב זביד

1

The Mishnah refers to
בכובי וכסי – לא יגע
 He should not take a large object such as a hat or a glass,
 because we assume that the owner hid them there
 purposely.

While the Braisa refers to
בסכיני והמניק – נוטל ומכריז
 He should take a small object such as a knife and return it,
 because we assume that the owner threw them out
 accidentally.



13

2.
 רב פפא says
 הא והא בכובי וכסי
 Perhaps both the Mishnah and Braisa refer to a large object, and the Mishnah refers to באשפה שאינה עשויה לפנות
 A garbage pile that is usually not emptied, and לא יגע
 Because the item is still protected

While the Braisa refers to באשפה שאינה עשויה לפנות
 באשפה שאינה עשויה לפנות
 ונמלך עליה לפנותה
 A garbage pile that is usually not emptied, but now someone decided to empty it, and
 נוטל ומכריז
 Because the item is no longer protected;

13

רב פפא

2

הא והא בכובי וכסי

Perhaps both the Mishnah and Braisa refer to a large object

The Braisa refers to

באשפה שאינה
 עשויה לפנות
 ונמלך עליה לפנותה

A garbage pile that is usually not emptied, but now someone decided to empty it, and

נוטל ומכריז

Because the item is no longer protected

The Mishnah refers to

באשפה שאינה
 עשויה לפנות

A garbage pile that is usually not emptied, and

לא יגע

Because the item is still protected