

Bava Basra – Simanim

פרק א - השותפין

דף ו – Daf 6

1. Established rights of usage in a neighbor's property (e.g. resting beams, dripping water)

The Gemara discusses cases where one has an established right in his neighbor's property. Rashi explains that these rights are established immediately when using his neighbor's property in his presence and the neighbor does not protest, proving that he bought or received this right. Rav Nachman said: אחזיק להורדי – *one who established the right to place thin beams on his neighbor's wall, לא אחזיק לכשורי – has not automatically established the right to place thick beams there, since the neighbor may not have allowed this, but if he established the right for thick beams, he certainly may place thin beams. Rav Yosef holds that even a right for thin beams automatically establishes a right to place thick beams.*

Rav Nachman said: אחזיק לנטפי – *if one established the right to allow rainwater to drip from along the length of his roof onto his neighbor's property, אחזיק לשפכי – he has automatically established the right to attach a gutter to guide the water to pour in one spot, which is preferable to the neighbor (since the harm is limited to one spot). An established right to allow pouring onto a neighbor's property is not sufficient to allow dripping, but Rav Yosef says it is. Another version of this machlokes is recorded.*

2. כשורא דמטלתא, rights for resting beams for shade

Ravina said: האי כשורא דמטלתא – *regarding this beam built for shade which is resting on a neighbor's wall, עד תלתין יומין לא הוי חזקה – for up to thirty days that it remains there, and the neighbor does not object, it does not establish a right to continue doing so, but if it remains there longer than thirty days, it establishes a right for him to rest beams there. ואי סוכה דמצוה היא – But if [the structure] is a succah built for the mitzvah of Succos, then it does not establish a chazakah if it remains for the seven days of Succos; if it remains longer, it establishes a chazakah to leave it there. Since common practice in those times was to leave a succah standing year-round, the owner's silence beyond Succos indicates that he allowed him to keep it there. Ravina concludes: ואי חבריה בטינא – And if he attached [the beam] to the neighbor's wall with cement, לאלתר הוי חזקה – it establishes a chazakah immediately, since the neighbor would not have otherwise allowed a permanent attachment.*

3. רשות הרבים רשות הרבים

Abaye said, regarding two houses facing each other across רשות הרבים גג, זה עושה מעקה לחצי גג – *this [homeowner] must make a fence four amos tall along half his roof, as does the other owner on the other half of his own roof, ומעדיף – and each must extend his fence to go slightly past the halfway mark, so that neither can gaze directly onto his neighbor's roof. Abaye discussed a רשות הרבים between the houses, because one might have thought that an owner can refuse to build a fence, arguing that his counterpart cannot use his rooftop for private activities anyway, since he is in view of the רשות הרבים. Abaye taught that this is not so, because the other can respond: רבים ביממא חזו לי – "The public can see me during the day, בליליא לא חזו לי – but at night, when they are home, they do not see me, and I could have done private activities then. But you can see me at night as well, preventing my use of the rooftop!" Additionally, the public only sees him when he is standing, and only if they intentionally try to look onto his roof, but his neighbor can see him even when he is sitting, and even without trying to gaze at him.*

Siman - Sword

The avid sword collector who placed his thin swords against his neighbor's wall, because he had a chazakah to do so since his neighbor didn't mind when he placed large swords there and left a number of swords on the neighbor's wall to use for shade for thirty days, giving him a chazakah to keep them there, was busy making a fence of swords across half of his roof, while his neighbor across the street was making a fence on the other half of his.

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Sword (a *vav* is straight like a sword)



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3 things to remember

1. Established rights of usage in a neighbor's property (e.g. resting thick/thin beams against wall)
2. Rights for resting beams for shade
3. How to fence rooftops facing each other across רשות הרבים

