

A בס"ד

Intro

Today we will learn בע"ה of בבא בתרא. Some of the topics we will learn about include.

A continuation of the מחלוקת regarding הבא לסמוך בצד המצר

If a person initially wants to dig a pit near the boundary, and there is no pit in the neighboring field;

אביי אמר סומך

ורבא אמר אינו סומך

אביי says he may dig a pit even within three טפחים of the boundary, because there is currently no היזק since there is no pit in the other field.

רבא says he may not dig a pit within three טפחים of the boundary, because there is a potential היזק if they later dig a pit in the other field.

מתונתא קשה לכותל

Dampness is harmful to a wall

טירייתא קשה לכותל

A vibration caused by the grinding of a mill is harmful to a wall

הבלא קשה לכותל

The heat of an oven is harmful to a wall

B דירה שאני

רבא does agree regarding residential use that a person is not obligated to leave a distance to prevent a potential היזק, because one is not restricted from using his residence, unless the potential damage already exists.

The מחלוקת regarding whether רבנן ורבי יוסי

על המזיק להרחיק את עצמו

It is incumbent upon the one who causes the damage to distance himself from the potential damaged party.

OR

על הניזק להרחיק את עצמו

It is incumbent upon the potential damaged party to distance himself from being damaged.

A

הבא לסמוך בצד המצר

אביי אמר סומך
ורבא אמר אינו סומך

מתונתא קשה לכותל

טירייתא קשה לכותל

הבלא קשה לכותל

B

דירה שאני

על הניזק
להרחיק
את עצמו

על המזיק
להרחיק
את עצמו

1 So let's review ...

The Gemara in the previous Daf discussed the מחלוקת אביי regarding

הבא לסמוך בצד המצר

If a person initially wants to dig a pit near the boundary, and there is no pit in the neighboring field;

אביי אמר סומך

ורבא אמר אינו סומך

אביי says he may dig a pit even within three טפחים of the boundary, because there is currently no היזק since there is no pit in the other field.

רבא says he may not dig a pit within three טפחים of the boundary, because there is a potential היזק if they later dig a pit in the other field.

=====

In possible support of אביי, the Gemara proceeds to cite from our Mishnah in the previous Daf which teaches a number of things which must be distanced from one's neighbor's brick wall at least three טפחים:

Zugt di Mishnah:

ומרחיקים את הגפת

ואת הזבל

ואת המלח

ואת הסיד

ואת הסלעים

מכותלו של חברו שלשה טפחים

וסד בסיד

The following items;

גפת, olive husks,

זבל, manure,

מלח, salt,

סיד, lime,

סלעים, firestones,

Must be distanced from the neighbor's brick wall at least three טפחים, or the wall must be smeared with lime;

because as Rashi explains

שכל אלו קשין לכותל

שמוציאין הבל

These are all harmful to the wall, because they emit heat.

1

הבא לסמוך בצד המצר

If a person initially wants to dig a pit near the boundary, and there is no pit in the neighboring field;

ורבא אמר

אינו סומך

He may not dig a pit within three טפחים of the boundary, because there is a potential היזק if they later dig a pit in the other field.

אביי אמר

סומך

He may dig a pit even within three טפחים of the boundary, because there is currently no היזק since there is no pit in the other field.



מרחיק

ומרחיקים את הגפת) Olive Husks
 (ואת הזבל) Manure
 (ואת המלח) Salt
 (ואת הסיד) Lime
 (ואת הסלעים) Firestones
מכותלו של חברו שלשה טפחים וסד בסיד

Must be distanced from the neighbor's brick wall at least three טפחים, or the wall must be smeared with lime;

As Rashi explains
 שכל אלו קשין לכותל שמוציאין הבל
 These are all harmful to the wall,
 because they emit heat.

2

ומרחיקין את הזרעים

ואת המחרישה

ואת מי רגלים

מן הכותל שלשה טפחים

A person may not sow seeds, plow, or urinate within three טפחים of his neighbor's brick wall.

The Gemara in this Daf gives the reason as

דמתונתא קשה לכותל

Because dampness is harmful to a wall;

However, the Gemara in the next Daf concludes as Rashi explains in the Mishnah, because

מרפה את יסודו ונופל

They loosen the earth beneath the wall and it might collapse.

The Mishnah continues:

ומרחיקין את הריחים שלשה מן השכב

שהן ארבעה מן הרכב

A mill must be distanced from the neighbor's brick wall at least three טפחים from the lower stone, it's wider base, which is four טפחים from the upper stone, which is narrower.

The Gemara in דף כ' gives two possible reasons; either

משום טיריא

Because of the vibrations; OR

משום קלא

Because of the noise;

See Tosfos on this Daf, ד"ה דטיריא,

2

מרחיקין את הזרעים

ואת המחרישה

ואת מי רגלים

מן הכותל שלשה טפחים

A person may not sow seeds, plow, or urinate within three טפחים of his neighbor's brick wall.

The Gemara in this Daf gives the reason as

דמתונתא קשה לכותל

Because dampness is harmful to a wall;

However, the Gemara in the next Daf concludes

דמרפה את יסודו ונופל

They loosen the earth beneath the wall and it might collapse.

ומרחיקין את הריחים שלשה מן השכב שהן ארבעה מן הרכב

A mill must be distanced from the neighbor's brick wall at least three טפחים from the lower stone, it's wider base, which is four טפחים from the upper stone, which is narrower.

משום קלא

Because of the noise

משום טיריא

Because of the vibrations



3

The Mishnah continues

ואת התנור שלשה מן הכליא
שהן ארבעה מן השפה

An oven must be distanced from the neighbor's brick wall at least three טפחים from the lower part of its base, which is four טפחים from the upper lip of its base which is one טפח narrower, because

דהבלא קשה לכותל

The heat of an oven is harmful to the wall;

Now, according to אב"י, the Mishnah, in each of the above cases, mentions כותל to teach

טעמא דאיכא כותל

הא ליכא כותל

סומך

It is only if the neighbor already has a wall that one must distance these things from the wall, but if the neighbor does not have a wall, one may place these things near the boundary.

However, according to רבא,

כי ליכא כותל

נמי לא סמיך

Even if the neighbor does not have a wall, one may not place these things near the boundary, and the Mishnah mentions כותל only to teach

דהני קשו לכותל

These items are harmful to the wall.

=====

3

ואת התנור שלשה מן הכליא שהן ארבעה מן השפה

An oven must be distanced from the neighbor's brick wall at least three טפחים from the lower part of its base, which is four טפחים from the upper lip of its base which is one טפח narrower, because

דהבלא קשה לכותל

The heat of an oven is harmful to the wall;



According to רבא,
כי ליכא כותל
נמי לא סמיך

Even if the neighbor does not have a wall, one may not place these things near the boundary.

The Mishnah mentions כותל only to teach

דהני קשו לכותל

These items are harmful to the wall.



According to אב"י,
the Mishnah,
in each of the above cases,
mentions כותל to teach

טעמא דאיכא כותל
הא ליכא כותל

סומך

If the neighbor does not have a wall, one may place these things near the boundary.

4 The Gemara continues to cite several Mishnayos later in this Perek which also seem to support אביי's opinion:

The Mishnah in כ' דף states;
לא יפתח אדם חנות של נחתומין ושל צבעין
תחת אוצרו של חבירו
ולא רפת בקר

One may not open a bakery, or a dyer's facility, or a stall for animals, under his neighbor's storage room, because the fumes are detrimental to his neighbor's goods.

The Mishnah implies

טעמא דאיכא אוצר
הא ליכא אוצר עביד

Only if the neighbor has a storage room, but if he does not have a storage room, one may do so; apparently, in support of אביי?

However, the Gemara answers that this is so even according to רבא, because

דירה שאני

These are all considered part of residential use; and as Rashi explains

ואין לנו לאסור דירתו עליו

אא"כ ההיזק מוכן

One is not restricted from using his residence, unless the potential for damage already exists.

=====

4

Several Mishnayos to support אביי

לא יפתח אדם חנות של נחתומין ושל צבעין
תחת אוצרו של חבירו
ולא רפת בקר

*One may not open a bakery,
or a dyer's facility, or a stall for animals,
under his neighbor's storage room,
because the fumes are detrimental to his neighbor's goods.*

טעמא דאיכא אוצר
הא ליכא אוצר עביד

*Only if the neighbor has a storage room,
but if he does not have a storage room, one may do so;
apparently, in support of אביי!*

This is so even according to רבא, because

דירה שאני

These are all considered part of residential use

and as Rashi explains

ואין לנו לאסור דירתו עליו

אא"כ ההיזק מוכן

*One is not restricted from using his residence,
unless the potential for damage already exists.*

5 The Mishnah in כ"ו states

לא יטע אדם אילן סמוך לשדה
אלא אם כן הרחיק ממנו ד' אמות

One may not plant a tree near his neighbor's field unless
he leaves a distance of four אמות, and the Braisa explains

ד' אמות שאמרו כדי עבודת הכרם

So that he can pass with his oxen when plowing and
harvesting his vineyard without going into his neighbor's
property.

The Braisa implies

טעמא דמשום כדי עבודת הכרם

הא לאו משום כדי עבודת הכרם

סמיך

ואע"ג דאיכא שרשין דקא מזקי

If not for this reason, he may plant the tree near the field,
even though its roots might later cause damage, and this
contradicts רבא who holds אינו סומך because of potential
future damage?

The Gemara explains

הכא במאי עסקינן

דמפסיק צונמא

The Mishnah refers to a case in which a large
underground rock separates the fields, and the roots
cannot spread into the neighbor's field.

=====

5

Another Mishna to support אביי

לא יטע אדם אילן סמוך לשדה
אלא אם כן הרחיק ממנו ד' אמות

One may not plant a tree near his neighbor's field
unless he leaves a distance of four אמות

The Braisa explains

ד' אמות שאמרו כדי עבודת הכרם

So that he can pass with his oxen
when plowing and harvesting his vineyard
without going into his neighbor's property.

טעמא דמשום כדי עבודת הכרם

הא לאו משום כדי עבודת הכרם
סמיך

ואע"ג דאיכא שרשין דקא מזקי

If not for this reason,
he may plant the tree near the field,
even though its roots might later cause damage.

?

This contradicts רבא who holds אינו סומך
because of potential future damage?

הכא במאי עסקינן
דמפסיק צונמא

The Mishnah refers to a case in which
a large underground rock separates the fields,
and the roots cannot spread into the neighbor's field.

6 The Mishnah in כ"ה states מרחיקין את האילן מן הבור עשרים וחמש אמה One may not plant a tree within 25 אמות of his neighbor's pit. According to אב"י the Mishnah mentions בור to teach טעמא דאיכא בור הא ליכא בור סמיך While according to רבא רבא כי ליכא בור נמי לא סמיך And the Mishnah mentions בור to teach דעד כ"ה אמה אזלי שרשים ומזקי לבור The roots can extend up to twenty-five אמה, and ruin the pit.
=====

6 *Another Mishna to support א"י*

מרחיקין את האילן מן הבור עשרים וחמש אמה
One may not plant a tree within 25 אמות of his neighbor's pit.

According to רבא **כי ליכא בור נמי לא סמיך** And the Mishnah mentions בור to teach **דעד כ"ה אמה אזלי שרשים ומזקי לבור** The roots can extend up to twenty-five אמה, and ruin the pit.

According to אב"י the Mishnah mentions בור to teach **טעמא דאיכא בור הא ליכא בור סמיך**

7 Now, this Mishnah continues; אם הבור קדמה קוצץ ונותן דמים ואם אילן קדם לא יקוצץ If the pit preceded the tree, he is obligated to cut down his tree; but the owner of the pit must compensate the owner of the tree. If the tree preceded the pit, he does not have to cut it down.

Now, according to רבא, ואי דלא סמיך היכי משכחת לה He was not allowed to plant the tree in the first place, even before the pit was there?

7 *The Mishnah continues...*

אם הבור קדמה - קוצץ ונותן דמים ואם אילן קדם - לא יקוצץ
If the pit preceded the tree, he is obligated to cut down his tree; but the owner of the pit must compensate the owner of the tree. If the tree preceded the pit, he does not have to cut it down.

?

According to רבא, **ואי דלא סמיך היכי משכחת לה**
He was not allowed to plant the tree in the first place, even before the pit was there?

אמר רב פפא בלוקח Originally, when he planted the tree it was well within his property, as it extended much further. However, he then sold part of his property to the point where the boundary is now less than 25 אמות from the tree. In this case, ואם אילן קדם לא יקוצץ He is not obligated to cut down his tree.
=====

אמר רב פפא בלוקח
Originally, when he planted the tree it was well within his property, as it extended much further. However, he then sold part of his property to the point where the boundary is now less than 25 אמות from the tree. In this case, **ואם אילן קדם - לא יקוצץ**
He is not obligated to cut down his tree.

8 This Mishnah continues further;

רבי יוסי אומר

אע"פ שהבור קודמת לאילן לא יקוץ
שזה חופר בתוך שלו וזה נוטע בתוך שלו

Even if the pit preceded the tree he is not obligated to cut down his tree, because one may plant a tree in his property and need not be concerned with any eventual damage to his neighbor's pit.

And the Gemara explains the רבי יוסי ורבי רבנן as follows:

The רבנן hold

מרחיקין את האילן מן הבור

And

אם הבור קדמה קוצץ ונותן דמים

Because

על המזיק להרחיק את עצמו

It is incumbent upon the one who causes the damage to distance himself from the potential damaged party.

And in the case of

ואם אילן קדם לא יקוץ

Although, based on the above, he would have to cut it down?

Tosfos explains that the חכמים exempted him because of הפסד מרובה

He would suffer a great loss.

רבי יוסי however holds

אין מרחיקין

And

אע"פ שהבור קודמת לאילן לא יקוץ

שזה חופר בתוך שלו וזה נוטע בתוך שלו

Because

על הניזק להרחיק את עצמו

It is incumbent upon the potential damaged party to distance himself from being damaged.

=====

8

The Mishnah continues. . .

רבי יוסי אומר

אע"פ שהבור קודמת לאילן לא יקוץ
שזה חופר בתוך שלו
וזה נוטע בתוך שלו

Even if the pit preceded the tree
he is not obligated to cut down his tree,

because one may plant a tree in his property
and need not be concerned with any eventual damage
to his neighbor's pit.

רבנן

מרחיקין את האילן מן הבור

ואם אילן קדם
לא יקוץ

Although, he would have
to cut it down?

Tosfos explains that the חכמים
exempted him because of

הפסד מרובה
He would suffer
a great loss.

אם הבור קדמה
קוצץ ונותן דמים

Because

אף המזיק לברוח את עצמו

It is incumbent upon
the one who causes the damage
to distance himself from
the potential damaged
party.

רבי יוסי

אין מרחיקין

And

אע"פ שהבור קודמת לאילן לא יקוץ
שזה חופר בתוך שלו וזה נוטע בתוך שלו

Because

אף המזיק לברוח את עצמו

It is incumbent upon the potential damaged party to
distance himself from being damaged.



9 Similarly, the Mishnah in כ"ה דף says;
 מרחיקין את המשרה מן הירק
 A person must distance his soaking flax from his neighbor's vegetables, because the flax damages the vegetables;
 ואת הכרישין מן הבצל
 And his leek from his neighbors onions, because the leek damages the onions;
 ואת החרדל מן הדבורים
 And his mustard from his neighbor's bee hive,

because as Rashi explains
 שאוכלין את החרדל ומחדד את פיהם
 ואוכלות את דבש שלהן
 The bees eat the mustard which leaves them with a sharp aftertaste, and they eat up their honey, causing a loss for their owner.
 All of the above is because the רבנן hold
 על המזיק להרחיק את עצמו

9 *Another Mishna to support א"י*
מרחיקין את המשרה מן הירק
A person must distance his soaking flax from his neighbor's vegetables, because the flax damages the vegetables;
ואת הכרישין מן הבצל
And his leek from his neighbors onions, because the leek damages the onions;
ואת החרדל מן הדבורים
And his mustard from his neighbor's bee hive

As Rashi explains
שאוכלין את החרדל ומחדד את פיהם
ואוכלות את דבש שלהן
The bees eat the mustard which leaves them with a sharp aftertaste, and they eat up their honey, causing a loss for their owner.

All of the above is because the רבנן hold
על המזיק להרחיק את עצמו

According to the conclusion of the Gemara, רבי יוסי holds regarding all of the above three cases

אין מרחיקין
Because
על הנזק להרחיק את עצמו



10 And according to the conclusion of the Gemara, רבי יוסי holds regarding all of the above three cases

אין מרחיקין
Because
על הניזק להרחיק את עצמו

However, רבי יוסי argues that even the רבנן should be מתיר בחדל

Because the owner of the חרדל can claim
עד שאתה אומר לי הרחק חרדלך מן דבוראי
הרחק דבורך מן חרדלאי
שבאות ואוכלות לגלוגי חרדלאי

Based on עצמו את עצמו, you are also obligated to distance your bees from my mustard because your bees damage my mustard by eating its flowers;
And since both are a מזיק, neither one is required to move away.

The רבנן however hold
מרחיקין את החרדל מן הדבורים
Because they hold that only the חרדל causes damage to the bees, but the bees do not cause damage to the חרדל plant, because
אי בבינתא לא משכחא ליה
The bees can't find the seeds, and
אי בטרפא הדר פארי
If the bees eat the leaves, they grow back.

10 However, רבי יוסי argues that even the רבנן should be מתיר בחדל

Because the owner of the חרדל can claim
עד שאתה אומר לי הרחק חרדלך מן דבוראי
הרחק דבורך מן חרדלאי
שבאות ואוכלות לגלוגי חרדלאי
Based on עצמו את עצמו, you also must distance your bees from my mustard, because they damage my mustard by eating its flowers;
And since both are a מזיק, neither one is required to move away.

The רבנן however hold
מרחיקין את החרדל מן הדבורים
Because they hold that
only the חרדל causes damage to the bees, but the bees do not cause damage to the חרדל plant, because
אי בבינתא לא משכחא ליה
The bees can't find the seeds, and
אי בטרפא הדר פארי
If the bees eat the leaves, they grow back.