HALAKHA

My residence is beneath the tree – Ḥak. This principle is significant primarily with regard to the ḥakah of Shabbat boundaries. However, even though the tannaim disagreed with regard to consecrations and vows, the ḥakah is that an object that is not defined can be consecrated. Therefore, Abaye did not raise an objection to the first version of Raba’s opinion (Genin Yerush.).

Simultaneously – b. Raḥ. Rabba’s opinion with regard to two matters taking effect simultaneously appears to be that this concept is moot, as no two phenomena can occur at precisely the same time. Therefore, simultaneity is merely uncertainty which of two events that occurred consecutively was first, as it is impossible to determine the actual order of events.

NOTES

Shmuel’s opinion – Ḥak. Rashi cites two explanations of Shmuel’s opinion. The Rambam and the Rif have a different understanding of Shmuel’s opinion. They rule that if he did not establish his place of residence in a particular location beneath the tree, he establishes residence in his present location and is prohibited to proceed any farther (Shulhan Arukh, Oraḥ Ḥayyim 409:11).

GEMARA

We learned in the mishna that one who declares his intention to establish residence beneath a tree, without specifying the precise location, has not said anything. The Gemara asks: What is the precise meaning of he has not said anything?

Rav said: He has not said anything at all, and has failed to establish residence anywhere, and he may not even go to the place beneath that tree. His failure to specify a particular location prevents him from establishing residence beneath the tree. The fact that he sought to establish residence someplace other than his present location prevents him from establishing residence at his present location. Accordingly, he may walk no more than four cubits from the place that he is standing.

And Shmuel said: He has not said anything with regard to going to his home, if it is two thousand cubits past the tree; however, with regard to the area beneath the tree, if its bough is entirely within two thousand cubits of his present location he may indeed go there.

And when we learned in the mishna that he did not establish residence, it means that the legal status of the area beneath the tree becomes comparable to both a donkey driver, who walks behind the animal and prods it, and a camel driver, who walks before the animal and leads it in the sense that the tree is pulling him in both directions. Since he did not specify a particular location as his residence, any part of the area beneath the tree could be the place where he established residence.

Therefore, if he comes to measure two thousand cubits from the north of the tree in order to ascertain whether or not he may go to his home, because of the uncertainty with regard to the precise location where he established residence, one measures the distance for him stringently from the south. And likewise if he comes to measure the distance to his home from the south, one measures the distance for him from the north.

Rabba said: What is the reason for Rav’s statement that one who declares his intention to establish residence beneath a tree has said nothing at all? It is because the place he designated is not precisely defined. Since he did not establish his residence in one particular location, he did not establish it at all.

And some say an alternative version of Rabba’s statement. Rabba said: What is the reason for the statement of Rav? It is because he maintains: Anything that cannot be accomplished sequentially, due to halakhic or practical considerations, even simultaneously, cannot be accomplished, as one negates the other. In this case, since one cannot establish residence in an area of four cubits on one side of a tree and proceed to establish residence in an area of four cubits on the other side of the tree, neither can he simultaneously establish residence beneath a tree greater than four cubits.

The Gemara asks: What is the practical difference between these two versions of Rabba’s statement? The Gemara answers: There is a practical difference between them with regard to a case where he said: Let residence be acquired for me in four cubits of the eight or more cubits beneath that tree.

According to the one who said that it is because the place he designated is not precisely defined, here too, the place he designated is not precisely defined, as he failed to specify the precise location of the four cubits in which to establish his residence.
And according to the one who said it is because anything that cannot be accomplished sequentially even simultaneously it cannot be accomplished, this is considered as if he established his residence in four cubits, as he here stated that he is designated only four cubits as his place of residence.

The Gemara proceeds to analyze the matter of Rabba’s statement itself. Rabba said: Anything that cannot be accomplished sequentially even simultaneously it cannot be accomplished. Abaye raised an objection to the opinion of Rabba based on the Tosefta: One who increases tithes, i.e., he tithes two-tenths instead of one-tenth, the remainder of his produce is rendered fit for consumption, as he properly tithed it; however, his tithes are ruined, as the additional tenth is neither a tithe nor is it tithed produce. It is not a tithe because tithe status applies only to one tenth, and neither is it tithed produce as it was not tithed. Since it is unclear which of the two-tenths is the actual tithe and which is not, this produce may neither be treated as a tithe nor as tithed produce.

According to Rabba’s opinion, the question arises: Why should the produce be rendered fit for consumption? Let us say and apply his principle: Anything that cannot be accomplished sequentially even simultaneously it cannot be accomplished. Since one may not designate two tenths sequentially, one tenth followed by a second tenth, likewise, he should be precluded from simultaneously designating two tenths of his produce as a tithe. Accordingly, it should be considered as though he had not designated any tithe at all, and therefore his produce should not be regarded as tithed.

Gemara answers: The case of a tithe is different, as tithe status takes effect partially, i.e., on less than a unit of produce. As if one said: Let half of each grain of wheat be designated as tithed, it is designated. Just as one can designate an entire grain of wheat as a tithe, he can likewise designate half a grain. In this case too, when one tithes two tenths of the produce, the ruling is not that one tenth is actual tithe and the other tenth is untithed produce mixed with the tithe. Instead, half of each grain of the set-aside portion is designated as a tithe, while the other half of each grain is not. Accordingly, the remainder of the produce is tithed, as one tenth of the total has been designated as first tithe. However, the portion designated as the tithe is ruined, because it is impossible to identify which part of each grain is designated.

Another objection was raised against Rabba’s opinion: Yet there is the case of the animal tithe, which does take effect partially, as one cannot consecrate half an animal for his tithe. Three times a year, the owner of a herd of kosher animals would gather all the animals born during the preceding period into an enclosure and let them out one by one. Every tenth animal would be marked with red paint to indicate that it was sacred. Only an entire animal could be consecrated as animal tithe, not a part of an animal.

And Rabba said: If two animals emerged from the enclosure together as the tenth, and he designated them both as the tenth, the tenth and eleventh animals are intermingled with each other. One is sacred with the sanctity of the animal tithe, while the other remains a peace-offering, but there is no way to determine which is which. The question arises: If the principle that anything which cannot be accomplished sequentially even simultaneously it cannot be accomplished applies, neither animal is consecrated, as one cannot designate both the tenth and the eleventh animals as the animal tithe, one after the other.

The Gemara answers: The animal tithe is different, as two animals can indeed be designated as animal tithe one after the other in the case of an error. Although one cannot designate the tenth and eleventh animals as the animal tithe ab initio, if he did so in error they are both consecrated.
As we learned in a mishna: If one erred and designated the ninth animal as the tenth, and erred again and designated the tenth as the ninth and the eleventh as the tenth, all three animals are consecrated. The first is consecrated because it was designated as the tenth, the second because it actually is the tenth, while the third is also consecrated because it was designated as the tenth. Apparently, more than one animal can be consecrated as the animal tithe, if designated in error. Here too, a modicum of sanctity applies to the two animals that emerged together and were together designated as the tenth.

The Gemara raises another objection to Rabba’s principle. But there is the case of the forty loaves that accompany a thanks-offering, which are not consecrated if they were designated in error, and likewise are not consecrated if two sets of loaves were designated for the same offering one after the other. And yet it is stated that amora’im disagreed with regard to a thanks-offering that was slaughtered accompanied by eighty loaves, twice the required amount. Hizkiya said: Forty of the eighty loaves are consecrated, even though their identity cannot be determined; Rabbi Yoḥanan said: Not even forty of the eighty loaves are consecrated. It would appear that these amora’im disagree whether or not sanctity that cannot take effect in sequence can take effect simultaneously.

When Hizkiya and Rabbi Yoḥanan disagree it is with regard to a case where the donor designated eighty loaves without stipulation how many he wants consecrated. One Sage, Hizkiya, maintains: Although he designated eighty loaves, he seeks to consecrate only forty, and when he sets aside eighty loaves, he merely intends to ensure that he will have forty, and he therefore brought the extra loaves on condition that if the first forty loaves are lost or become ritually impure, the second forty will be consecrated in their place. Consequently, the first forty loaves are consecrated.

If he designated the ninth as the tenth – אֲשֶׁר יִקְרָא לַתְּשִׁיעִי עֲשִׂירִי. Every tenth animal of those born that year is consecrated as the animal tithe. Special halakhot apply to this animal, which must be brought to Jerusalem, sacrificed, and eaten there. The Sages, however, derived from the verses that when the sanctity of the tithe is not properly declared, additional animals are occasionally consecrated as a result of his error. Therefore, if one designated the tenth animal as the tenth, sanctity cannot take effect on the eleventh. However, if one designated the tenth animal as the ninth, its sanctity did not fully take effect, and as a result the eleventh can also be consecrated as the animal tithe.

Thanks-offering –animal tithe. The thanks-offering is specified in the Torah as a unique type of peace-offering. The Sages received a tradition, based on Psalms 107, with regard to the circumstances that obligate a person to bring a thanksgiving sacrifice. Along with the sacrifice, typically a sheep, one also brings a meal-offering in the form of forty loaves of four varieties, ten of each.

Thanks-offering, which are not consecrated in error – הַמַּרְבֶּה בְּמַעְשְׂרוֹת. An error in the case of a thanks-offering would be, for example, if he consecrated forty black loaves of bread in his house, and he discovered they were actually white (Rashi; Meir), or if he used the thanksgiving loaves of another person for his own thanks-offering, as the loaves of one person cannot be consecrated through the offering of the thanks-offering of another (Ra’avad).

If he designated the ninth as the tenth – אֲשֶׁר יִקְרָא לַתְּשִׁיעִי עֲשִׂירִי. The halakha is that an error in counting can cause both the ninth and the eleventh animals, but no others, to be consecrated as the animal tithe. In that case, with regard to the ninth animal, one waits until it develops a blemish, at which point they may be slaughtered and eaten as non-sacrificed meat, and the eleventh animal is sacrificed as a peace-offering (Rambam, Sefer Korbanot, Hilkhot Bekhorot 8:1–2).

A thanks-offering with eighty loaves – הַמַּרְבֶּה בְּתּוֹדָה. If one brought eighty loaves to accompany his thanks-offering, saying: Let forty of the eighty loaves be consecrated, he takes forty loaves for his thanks-offering, while the rest are redeemed and eaten as non-sacrificed bread. If one slaughtered the thanks-offering accompanied by eighty loaves without specifying, they are not consecrated. This is the Rambam’s ruling, in accordance with the opinion of Rabbi Yoḥanan. The Ra’avad, however, rules that in the latter case only forty loaves are consecrated, in accordance with the opinion of Hizkiya, who was Rabbi Yoḥanan’s teacher (See Rashi and Kesef Mishneh; Rambam, Sefer Avoda, Hilkhot Pesulei HaMukdashim 12:1–5).

NOTES

HALAKHA
And the other Sage, Rabbi Yohanan, maintains: He intends to bring a large offering of eighty loaves, and therefore none of the loaves are consecrated.

Abaye said: They only taught Rav’s ruling that one cannot establish residence beneath a tree without precisely defining a particular location, with regard to a tree beneath which there are at least twelve cubits. However, with regard to a tree beneath which there are not twelve cubits, he can establish residence there, as at least part of his residence is conspicuous. In that case, there is a partial overlap between the middle cubits beneath the tree and the four cubits furthest from him, and consequently each necessarily contains at least part of his residence.

Rav Huna, son of Rav Yehoshua, strongly objects to this: From where is it ascertained that he designates his residence in the four middle cubits, so that there is a partial overlap with both the nearest and the farthest cubits; perhaps he designates it in the four cubits on this side or in the four cubits on the other side? Since he does not know which location he designated as his residence, he did not establish residence anywhere beneath the tree.

Rather, Rav Huna, son of Rav Yehoshua, said: Abaye’s statement must be emended. They taught this only with regard to a tree that has at least eight cubits beneath it. However, with regard to a tree that has only seven cubits beneath it, even if one did not establish a particular location, he acquires residence, as at least part of his residence is conspicuous, as any four cubits must include at least one cubit of his residence.

With regard to the dispute between Rav and Shmuel, the Gemara notes that one baraita was taught in accordance with the opinion of Rav and another baraita was taught in accordance with the opinion of Shmuel.

The Gemara elaborates. A baraita was taught in accordance with the opinion of Rav: With regard to one who was coming along the way on Shabbat eve, and it grew dark while he was traveling, and he was familiar with a tree or a fence within two thousand cubits of his current location, and he said: My residence is beneath that tree, he has not said anything of legal consequence. However, if he said: My residence is in such-and-such place, he walks until he reaches that place. Once he reached that place that he established as his residence, he walks through all of it and another two thousand cubits beyond it.

In what case are these matters, that he establishes four cubits as his residence, and another two thousand cubits in each direction, stated? In a case where he selected a well-defined, clearly demarcated place, i.e., a case where he established residence on a mound ten handbreadths high, and its area ranges from a minimum of four cubits to a maximum of two beti se’a. And, likewise, that is the halakha when he establishes residence on a plain ten handbreadths deeper than the surrounding area, and its area ranges from a minimum of four cubits to a maximum of two beti se’a. However, if he selected a place that is not defined, e.g., in the middle of a plain, he does not establish residence, and accordingly he has only four cubits in which to move.

If two people were walking together, one of whom is familiar with a particular location in the distance, and one of whom is not familiar with it, the one who is not familiar with it entrusts his right to designate his residence to the one who is familiar with it, and the one who is familiar with it says: My residence is in such-and-such place.
If each one established an eiruv in two directions – בְּמָ וֹם מְסוּיָּים אֶחָד עֵירֵב עָלָיו וְלִשְׁתֵּי רוּҳוֹות.

Some commentaries question Rav's opinion in light of this discussion. As Rabba maintains that anything that cannot be accomplished consecutively cannot be accomplished simultaneously either, how does this person establish an eiruv at all? The halakha should be that his limit is like that of the other inhabitants of the town. The commentaries answer that there the issue of simultaneity is not relevant in this context. Even if he does not seek to establish his residence in two places simultaneously but acquired them one after the other, the halakha is stringent and he is subject to the restrictions of each eiruv; due to the uncertainty which came first (Tosafot, as cited by the Riva).

If each eiruv was placed two thousand cubits in opposite directions placing him in the middle of the limit – בְּמָ וֹם מְסוּיָּים אֶחָד עֵירֵב עָלָיו וְלִשְׁתֵּי רוּهوֹות. Rashi states that the tanna placed his eiruv in two directions, because the tanna himself had status and therefore could establish residence in both locations. This is in accordance with the opinion of Rav.

Rav himself had tanna status and therefore could disagree with opinions of tanna'im – אִם מִיצְּעוּ עָלָיו אֶת הַתְּחוּם. Some commentaries explain that Rav is as important as one of the tanna'im, and he therefore acquires residence to acquiring residence beneath the tree. However, with regard to the possibility of establishing residence at a specific location is insufficient if his two thousand cubits beneath the tree, the assumption is that he is less than twelve cubits beneath the tree, the assumption is that he is not aware of that place may entrust his right to select his residence regardless of area or if it was less than two thousand cubits of his present location, and he did not designate a defined location beneath it, he did not establish residence, even according to Shmuel (Shulhan Arukh, Orah Hayyim 409:11). In what case are these matters, that he acquires four cubits as his residence and another two thousand cubits in each direction, stated?

Gemara poses a question: Let us say that this baraita is a conclusive refutation of the opinion of Shmuel? The Gemara answers: There is no difficulty, as Shmuel could have said to you: With what are we dealing here? We are dealing with a special case, where from the place he is standing to the trunk of the tree there is a distance of two thousand and four cubits, so that if you were to establish residence on the other side of the tree, it would be situated outside his Shabbat limit. Consequently, if he designated his four cubits on the near side of the tree he may go there; and if not, he may not go from the place he is standing. In other words, since he did not establish residence in a particular location, the concern is that he sought to establish it beyond his two thousand cubit limit.

A baraita was taught in accordance with the opinion of Shmuel. If one erred and established an eiruv in two directions at once, for example, if in his ignorance he imagined that it is permitted to establish an eiruv in two directions, that he may extend the distance that he may walk on Shabbat in two opposite directions, or if he said to his servants: Go out and establish an eiruv for me, without specifying the direction, and one established an eiruv for him to the north, and one established an eiruv for him to the south, he may walk to the north as far as he is permitted go based on his eiruv to the south, and he may walk to the south as far as he is permitted go based on his eiruv to the north. In other words, the assumption is that he established residence in both directions based on the eiruv in each direction, and he must therefore take both into consideration before moving.

And consequently, if each eiruv was placed two thousand cubits in opposite directions placing him in the middle of the limit, he may not move from his current location, as it is prohibited to venture beyond either limit. Apparently, even if one did not establish residence in a particular location, as in this case he has acquired residence in both places, nonetheless, the halakha is that residence has been established in his current location, in accordance with the opinion of Shmuel.

The Gemara poses a question: Let us say that this baraita is a conclusive refutation of the opinion of Rav? The Gemara answers: This baraita indeed differs with Rav's ruling. Nevertheless his opinion is not disqualified, as Rav himself had tanna'im status and therefore, unlike later amora'im, could disagree with opinions of tanna'im. We learned in the mishna that if, however, he said: My residence is at the trunk of the tree, he established residence there, and he may walk from the place that he is standing to the trunk of the tree, up to two thousand cubits, and from the trunk of the tree to his house another two thousand cubits. Ultimately, he may walk after nightfall a total distance of four thousand cubits.

Two thousand and four cubits – נַחַל אִם מִיצְּעוּ עָלָיו אֶת הַתְּחוּם אֶחָד עֵירֵב עָלָיו וְלִשְׁתֵּי רוּחוֹות. If the entire tree beneath which a person established his residence was not within two thousand cubits of his present location, and he did not designate a defined location beneath it, he did not establish residence, even according to Shmuel (Shulhan Arukh, Orah Hayyim 409:11). Two eiruvin – צְאוּ וְעָרְבוּ לִי. If one established two eiruvin in two different directions, whether due to ignorance or due to an error on the part of his messengers, it is as though he established his residence in two places, and he may only walk within the limits permitted to him by each (Shulhan Arukh, Orah Hayyim 412:1).