

## LANGUAGE

Small rooms [*kitoniyyot*] – קיטוניות: From the Greek *κοῖτος*, *koitos*, meaning bedroom. The Sages used this word in reference to any small room.

## HALAKHA

His head and most of his body and his table – ראשו ורובו וְשולחַנו: A *sukka* must be large enough to contain the head, most of the body, and at least part of the table of the person sitting in the *sukka*. Therefore, the *sukka* must measure seven by seven handbreadths. This ruling is in accordance with Rav Shmuel bar Yitzhak, who ruled in accordance with the opinion of Beit Shammai (Rif; Ran). If the *sukka* is square, seven by seven handbreadths is sufficient. If the *sukka* is rectangular or triangular with an area of a bit more than forty-nine square handbreadths, the *sukka* is unfit (*Taz; Magen Avraham; Shulhan Arukh, Oraḥ Hayyim* 634:1).

משום אוירא. אלא למאן דאמר  
בסוכה קטנה מחלוקת, וכי דרבה של  
מלכה לישב בסוכה קטנה? אמר רבה  
בר רב אדא: לא נצרכה אלא סוכה  
העשויה קיטוניות קיטוניות.

וכי דרבה של מלכה לישב בסוכה  
העשויה קיטוניות קיטוניות? אמר  
רב אשי: לא נצרכה אלא לקיטוניות  
שבה.

רבנן סברי: בניה בסוכה מעליא הו  
יתבי, ואיהי יתבה בקיטוניות משום  
צניעותא, ומשום הכי לא אמרי לה  
דבר. ורבי יהודה סבר: בניה גבה הו  
יתבי, ואפילו הכי לא אמרי לה דבר.

אמר רב שמואל בר יצחק: הלכה,  
צריכה שתהא מחוקת ראשו ורובו  
ושולחננו. אמר ליה רבי אבא: כמאן –  
בבית שמאי? אמר ליה: אלא כמאן?

איכא דאמרי, אמר רבי אבא: דאמר  
לך מני? אמר ליה: בית שמאי היא,  
ולא תווי מניה.

due to the fresh air that circulates through the openings in the wall. However, according to the one who said that it is specifically in the case of a small *sukka* that there is a dispute between Rabbi Yehuda and the Rabbis, in which case the *baraita* is referring to a case where Queen Helene resided in a small *sukka*, is it customary for a queen to reside in a small *sukka* whose area is less than four cubits squared? Rabba bar Rav Adda said: This ruling is necessary only in the case of a *sukka* that is constructed with several small rooms [*kitoniyyot*].<sup>L</sup> The *sukka* was large, but it was subdivided into many small rooms, each of which was smaller than four square cubits.

Again, the Gemara asks: Is it then customary for a queen to reside in a *sukka* constructed with several small rooms without leaving a large room in which she could assemble her family and servants? Rav Ashi said: This ruling is necessary only with regard to the compartments in the *sukka*. It was indeed a large *sukka* with a large central room; however, there were many small rooms adjacent to the main room. It is with regard to this type of *sukka* that there is a tannaitic dispute.

The Rabbis hold: Her sons were residing in a full-fledged *sukka* with a large central room, which everyone agrees was fit. However, she often resided in the small rooms due to modesty, to avoid being in the public eye. And for that reason the Elders did not say anything to her, as even if the small rooms were too small relative to the height of the *sukka*, there was no problem since her sons did not sit in them. And Rabbi Yehuda holds: Her sons would occasionally reside with her in the small room, and even so, the Elders did not say anything to her, indicating that a *sukka* more than twenty cubits high is fit even in a small *sukka*. Now that the *Tosefta* can be explained according to all the statements cited by the *amora'im* in the name of Rav, no proof can be cited with regard to the essence of the dispute between Rabbi Yehuda and the Rabbis with regard to a small *sukka* more than twenty cubits high.

**S** Rav Shmuel bar Yitzhak said: The *halakha* is that one's *sukka* must be large enough to hold his head, and most of his body, and his table.<sup>H</sup> Rabbi Abba said to him, astonished: In accordance with whose opinion did you rule? Was it in accordance with the opinion of Beit Shammai? This is the subject of a dispute between Beit Shammai and Beit Hillel, and according to Beit Hillel it is sufficient for the *sukka* to be large enough to hold one's head and most of his body; it need not be large enough to hold his table as well. The halakhic ruling that you issued is in accordance with the opinion of Beit Shammai, despite the fact that in disputes between Beit Shammai and Beit Hillel, the *halakha* is in accordance with the opinion of Beit Hillel. Rav Shmuel bar Yitzhak said to him: Rather, in accordance with whose opinion should I rule? Yes, my ruling is in accordance with the opinion of Beit Shammai because in this case that is the *halakha*.

Some say that the exchange between the *amora'im* was slightly different. Rabbi Abba said: Who stated that opinion to you? Rav Shmuel bar Yitzhak said to him: It was Beit Shammai, and nevertheless do not budge from it, as that is the established *halakha*. Based on either version of the exchange, there is a dispute between Beit Shammai and Beit Hillel with regard to the minimum measure of a small *sukka*.

## NOTES

In accordance with whose opinion did you rule; was it in accordance with the opinion of Beit Shammai – כמאן בבית – שמאי: Some explain the different versions of the response of Rav Shmuel bar Yitzhak: Rather, in accordance with whose opinion should I rule; and: It is Beit Shammai and nevertheless do not budge from it, to indicate another dispute, namely, whether

or not Beit Shammai ruled the practical *halakha* in accordance with their own opinion. According to the first expression, Beit Shammai never actually issued a ruling in accordance with their opinion, and it is Rav Shmuel bar Yitzhak who issued that ruling. According to the second expression, Beit Shammai issued the ruling and Rav Shmuel bar Yitzhak adopted that ruling (*Arukh LaNer*).

וְשׁוֹלְחָנוּ בְּתוֹךְ הַבַּיִת – שׁוֹלְחָנוּ בְּתוֹךְ הַבַּיִת – And his table is inside the house – One sitting in a *sukka* must have his head, most of his body, and his table with him in the *sukka*, as in this matter too, the *halakha* is in accordance with the opinion of Beit Shammai (Rif; Rambam; *Shulhan Arukh, Orah Hayyim* 634:4).

NOTES

שָׂמָא יִמְשֵׁךְ – שָׂמָא יִמְשֵׁךְ – Lest he be drawn and a small *sukka* – The Gemara proves that Beit Shammai and Beit Hillel disagree with regard to two related matters: One dispute is with regard to an individual whose table is outside the *sukka*, and the other is with regard to the minimum area of a *sukka*. Ultimately, the *halakha* is in accordance with the opinion of Beit Shammai in both matters (see Ritva). However, many of the early commentaries claim that there is no link between these *halakhot* because they can be understood as unrelated topics: One about the area of the *sukka*, and the other about the decree: Lest one be drawn after his table. Many of the early authorities claim, in fact, that with regard to the area of the *sukka*, the *halakha* was indeed ruled in accordance with the opinion of Beit Shammai; however, with regard to the decree, the *halakha* is not in accordance with the opinion of Beit Shammai (Rabbi Yitzhak ibn Giat; *Sefer Hashtama*; Rabbi Aharon HaLevi; Rabbi Zerahya HaLevi). Some explain that the ruling with regard to the decree: Lest one be drawn, is not based on the Gemara here but on the conclusion in the Jerusalem Talmud that Beit Hillel concede to the opinion of Beit Shammai (*Rishon LeTziyyon*).

וְהַמִּשְׁנָה הַזֹּאת הִיא חִסְרוּת – וְהַמִּשְׁנָה הַזֹּאת הִיא חִסְרוּת – And the mishna is incomplete and this is what it is teaching – This explanation appears extensively in the Gemara; however, as a rule, it is not proposing to emend the text of the mishna. The addition introduced by the Gemara is an elaboration upon that which is written in the mishna, which is unclear as written. The addition facilitates understanding of the mishna.

מִתְקִיף לָהּ רַב נַחֲמָן בַּר יִצְחָק: מִמָּאֵי דְבֵית שְׁמַאי וּבֵית הַלֵּל בְּסוּכָה קְטַנָּה פְּלִיגִי? דְּלָמָּא בְּסוּכָה גְּדוּלָּה פְּלִיגִי, וּכְגוֹן דִּיתִיב אֲפּוּמָּא דְּמְטוּלָתָא, וְשׁוֹלְחָנוּ בְּתוֹךְ הַבַּיִת. דְּבֵית שְׁמַאי סְבָרִי: גְּזָרִינן שְׂמָא יִמְשֵׁךְ אַחַר שׁוֹלְחָנוּ, וּבֵית הַלֵּל סְבָרִי: לֹא גְזָרִינן.

Rav Nahman bar Yitzhak strongly objects to this assumption: From where do you conclude that Beit Shammai and Beit Hillel disagree with regard to the minimum measure of a small *sukka*? Perhaps it is with regard to a large *sukka* that they disagree, and in a case where one is sitting at the entrance of the *sukka* and his table is inside the house.<sup>h</sup> As Beit Shammai hold that we issue a decree to prohibit one from sitting that way lest he be drawn after his table while eating, to the extent that his head and most of his body will be inside the house and not inside the *sukka*. And Beit Hillel hold that we do not issue that decree.

וְדִיקָא נַמִּי, דְּקָתַנְנִי: מִי שְׁהִיָּה רֹאשׁוֹ וְרובוֹ בְּסוּכָה וְשׁוֹלְחָנוּ בְּתוֹךְ הַבַּיִת, בֵּית שְׁמַאי פּוֹסְלִין וּבֵית הַלֵּל מְכַשְׁרִין. וְאִם אֵיתָא – מִחֻקָּתָא? וְ"אֵינָהּ מִחֻקָּתָא" מִיבְעִי לֵיהּ.

And the language of the mishna is also precise, as it teaches: In the case of one whose head and most of his body were in the *sukka* and his table was in the house, Beit Shammai deem it unfit and Beit Hillel deem it fit. And if it is so that the dispute is with regard to the minimum measure of the *sukka*, the formulation of the mishna is missing the essential point. The distinction between a *sukka* that holds and a *sukka* that does not hold his head and most of his body is what the mishna needed to say. Since the mishna does not make that distinction, apparently the dispute is not with regard to the minimum measure of a *sukka*.

וּבְסוּכָה קְטַנָּה לֹא פְּלִיגִי? וְהַתֵּנָּא: מִחֻקָּתָא רֹאשׁוֹ וְרובוֹ וְשׁוֹלְחָנוּ – בְּשֵׁרָה, רַבִּי אֹמְרִי: עַד שְׁיָאָה בְּהָ אַרְבַּע אַמּוֹת עַל אַרְבַּע אַמּוֹת.

The Gemara questions this conclusion: And in the case of a small *sukka* do Beit Shammai and Beit Hillel not disagree? But isn't it taught in another *baraita*: A *sukka* that holds his head, and most of his body, and his table is fit. Rabbi Yehuda HaNasi says: It is unfit until it measures at least four cubits by four cubits.

וְהַתֵּנָּא אֵיךְ, רַבִּי אֹמְרִי: כֹּל סוּכָה שְׂאִין בְּהָ אַרְבַּע אַמּוֹת עַל אַרְבַּע אַמּוֹת – פְּסוּלָּה, וְחֻכְמִים אֹמְרִים: אֲפִילוּ אֵינָה מִחֻקָּתָא אֲלָא רֹאשׁוֹ וְרובוֹ בְּשֵׁרָה, וְאֵילוּ שׁוֹלְחָנוּ לֹא קָתַנְנִי. קְשִׁינן אֲהַדְרִי אֲלָא לֹא שְׂמָע מִינָּה: הָא – בֵּית שְׁמַאי, הָא – בֵּית הַלֵּל.

And it is taught in yet another *baraita* that Rabbi Yehuda HaNasi says: Any *sukka* that does not have an area of at least four cubits by four cubits is unfit. And the Rabbis say: Even if it holds only his head and most of his body, it is fit. However, the term: His table, is not taught in this *baraita*. If so, these two tannaitic sources contradict each other, as each attributes a different opinion to the Rabbis. Rather, must one not conclude from it that this *baraita*, in which: His table, is taught, is in accordance with the opinion of Beit Shammai, while that *baraita*, in which: His table, is not taught, is in accordance with the opinion of Beit Hillel? Apparently, they do dispute the minimum measure of a small *sukka*.

אָמַר מַר זוּטְרָא: מִתְנִיתִין נַמִּי דִּיקָא, מִדְּקָתַנְנִי: "בֵּית שְׁמַאי פּוֹסְלִין וּבֵית הַלֵּל מְכַשְׁרִין", וְאִם אֵיתָא – "בֵּית שְׁמַאי אֹמְרִים לֹא יֵצֵא וּבֵית הַלֵּל אֹמְרִים יֵצֵא" מִיבְעִי לֵיהּ.

Mar Zutra said: And the language of the mishna is also precise, and it indicates that Beit Shammai and Beit Hillel indeed dispute the minimum measure of a small *sukka* from the fact that it teaches: Beit Shammai deem it unfit and Beit Hillel deem it fit. And if it is so that the dispute is with regard to the conduct of one sitting at the entrance of a large *sukka*, then Beit Shammai say: He did not fulfill his obligation, and Beit Hillel say: He fulfilled his obligation, is what the mishna needed to say. However, the terms fit and unfit indicate that the dispute is with regard to the halakhic status of the *sukka* itself, not the individual's behavior.

וְאֲלָא קְשִׁיָּא "מִי שְׁהִיָּה"!

The Gemara asks: But if that is so, the formulation of the mishna: One whose head and most of his body were in the *sukka*, is difficult, as it indicates that the dispute is with regard to where in the *sukka* he was sitting. The mishna does not say: A *sukka* that holds his head and most of his body, which would indicate that the dispute is with regard to the minimum measure of the *sukka*.

לְעוֹלָם בְּתַרְתֵּי פְּלִיגִי, פְּלִיגִי בְּסוּכָה קְטַנָּה, וּפְלִיגִי בְּסוּכָה גְּדוּלָּה, וְחֻסְרֵי מִיחְסָרָא וְהִכֵּי קָתַנְנִי: מִי שְׁהִיָּה רֹאשׁוֹ וְרובוֹ בְּסוּכָה וְשׁוֹלְחָנוּ בְּתוֹךְ הַבַּיִת, בֵּית שְׁמַאי אֹמְרִים לֹא יֵצֵא, וּבֵית הַלֵּל אֹמְרִים: יֵצֵא. וְשְׂאִינָה מִחֻקָּתָא אֲלָא כְּדִי רֹאשׁוֹ וְרובוֹ בְּלִבְדִּי, בֵּית שְׁמַאי פּוֹסְלִין וּבֵית הַלֵּל מְכַשְׁרִין.

The Gemara answers: Actually, they disagree with regard to two issues; they disagree with regard to the minimum measure of a small *sukka*,<sup>n</sup> and they disagree with regard to where one may sit in a large *sukka*. And the mishna is incomplete and this is what it is teaching:<sup>n</sup> One whose head and most of his body were in the *sukka* and his table was in the house, Beit Shammai say that he did not fulfill his obligation and Beit Hillel say that he fulfilled his obligation. And with regard to a *sukka* that holds only his head and most of his body, Beit Shammai deem it unfit and Beit Hillel deem it fit. In this way, the dispute in the mishna is understood as relating to the measure of a small *sukka* and the manner in which one fulfills his obligation in a large *sukka*.

## NOTES

A house in which there is not an area of four cubits by four cubits – בית שאין בו ארבע אמות על ארבע אמות. See *Tosafot*, who cite additional *halakhot* from the Jerusalem Talmud in which the legal status of a house in which there is an area of less than four by four cubits is not that of a house. However, later commentaries note that not in every case where house is mentioned in the Torah must the structure have an area of at least four by four cubits. The distinction is between mitzvot where the house is integral to the mitzva and therefore requires an area of four by four cubits, and mitzvot where the house is incidental to the mitzva, e.g., in the verse: “Do not bring an abomination into your house” (Deuteronomy 7:26), and the area of the house is irrelevant (*Arukh LaNer; Emek Sukkot*).

## BACKGROUND

**Leprosy of the house – נגעי בתים**: By Torah law (see Leviticus 14:33–57), if leprosy spots appear in a house, all the objects in the house must be removed in order to prevent them from becoming ritually impure, after which a priest is brought to examine the house. If the priest confirms that there is evidence of leprosy, the house is quarantined for a week, after which it is reexamined by the priest. If the leprosy spots darkened or disappeared, the house is declared ritually pure. If the spots remained unchanged, the house is quarantined for a second week. If the spots have then darkened, the house is declared ritually pure after the purification process described below. However, if the spots remain unchanged or have spread, the affected parts of the house are removed and replaced with new materials, after which the house is quarantined for a third week. If the spots reappear, the entire house must be destroyed, and its stones are disposed of in a ritually impure place.

A leprosy house renders people and objects inside it ritually impure, with the exception of objects in hermetically sealed earthenware containers. If the house is declared free of leprosy, it is purified by a process involving birds, cedar wood, and red thread, parallel to the purification process of a leprosy person. There are many halakhic restrictions with regard to the applicability of the laws pertaining to leprosy houses, including the restriction that they apply only to structures at least four by four cubits in size.

מאן תנא להא דתנו רבנן: בית שאין בו ארבע אמות על ארבע אמות, פטור מן המזוזה וכן המעקה, ואינו משמא בנגעים, ואינו נחלט בבתי ערי חומה,

Ⓢ Apropos the above discussion, the Gemara asks: **Who is the tanna who taught that which the Sages taught:** The halakhic status of a house in which there is not an area of four cubits by four cubits<sup>n</sup> is not that of a house? Therefore, *halakhot* in the Torah or the mishna that are relevant to a house do not apply to a house that size. Consequently, it is exempt from the mitzva of placing a *mezuzah*<sup>h</sup> on its doorpost; and it is exempt from the obligation of establishing a *parapet*<sup>h</sup> around its roof; and it does not become ritually impure with leprosy of the house.<sup>hb</sup> And its sale is not rendered final in the same manner as the sale of houses within walled cities.<sup>h</sup> The owner of a house in a walled city who sells his house has the option to buy it back from the purchaser within one year of the sale. If he fails to do so, the sale is rendered final and the house does not return to the original owner during the Jubilee Year (see Leviticus 25:29–31).

ואין חוזרין עליו מעורכי המלחמה, ואין מערבין בו, ואין משתתפין בו, ואין מניחין בו עירוב,

And one does not return from the ranks of soldiers waging war for a house that size,<sup>h</sup> as would one who built a house with an area greater than four by four cubits (see Deuteronomy 20:5). And one need not join the houses in the courtyards for a house with that area. If there is more than one house in a courtyard, it is prohibited by rabbinic law to carry in that courtyard unless the residents of each of the houses contribute food that is placed in one of the houses, thereby rendering them joint-owners of the courtyard. The resident of a house with an area of less than four by four cubits need not participate in this joining of courtyards. And one need not merge the courtyards that open into an alleyway for a courtyard in which the area of its only house is less than four by four cubits. In this case, too, the resident of that courtyard need not participate in the merging of alleyways. And one does not place the food collected for the aforementioned joining [*eiruv*] of courtyards in this house but rather in a house with an area of at least four by four cubits.

## HALAKHA

**A house with regard to the mitzva of placing a mezuzah – בית**: Only a house with an area of at least four by four cubits requires that a *mezuzah* be affixed upon its doorposts. The house need not be square; rather, a house of any shape with an area of sixteen square cubits is obligated in the mitzva of *mezuzah* (Rambam as interpreted by the Rosh; *Shulhan Arukh, Yoreh De'a* 286:13).

**A house with regard to a parapet – בית לענין מעקה**: A house with an area of less than four by four cubits is exempt from the mitzva of having a parapet built on the roof because it is not classified as a house with regard to those *halakhot* (*Sefer Me'irat Einayim*). Some say that if the area of the structure is greater than sixteen square cubits, even if it is not square-shaped, one is obligated to build a parapet on the roof due to the potential danger (*Arukh HaShulhan; Shulhan Arukh, Hoshen Mishpat* 427:2).

**A house that becomes ritually impure with leprosy – בית**: A house with an area of less than four by four cubits does not become ritually impure with leprosy of the house, as by Torah law leprosy afflicts only structures classified

as houses, and the legal status of a structure with an area of less than four by four cubits is not that of a house (Rambam *Sefer Tahara, Hilkhot Tumat Tzard'at* 14:6).

**A house among houses within walled cities – בית בבתי ערי חומה**: The legal status of a house with an area of less than four by four cubits is that of land, not that of a house. Therefore, it is not sold in perpetuity like other houses within walled cities; rather, even after one year, one may redeem the house from the purchaser, and it reverts back to its original owner in the Jubilee Year. The Torah uses the term house with regard to the *halakhot* of walled cities, and therefore, the *halakha* applies only to a structure at least four by four cubits in size (Radbaz; Rambam *Sefer Zera'im, Hilkhot Shemitta VeYovel* 12:12).

**A house with regard to return from the ranks of the soldiers waging war – בית לחזרה מן המערכה**: One who builds a house with an area of less than four by four cubits does not return from the ranks of soldiers waging war, in accordance with the conclusion of the Gemara here (Rambam *Sefer Shofetim, Hilkhot Melakhim* 7:5).

ואין עושים אותו עיבור בין שתי עירות  
ואין האחים והשותפים חולקין בו.

לימא רבי היא ולא רבנן? אפילו תימא  
רבנן. עד כאן לא קאמרי רבנן התם  
אלא לענין סוכה, דדירת עראי היא.  
אבל לגבי בית, דדירת קבע הוא –  
אפילו רבנן מודו, דאי אית ביה ארבע  
אמות על ארבע אמות – דיירי ביה  
אינשי, ואי לא – לא דיירי ביה אינשי.

אמר מר: פטור מן המזוזה ומן המעקה  
ואין מטמא בנגעים ואינו נחלט בבתי  
ערי חומה ואין חוזרין עליו מעורכי  
המלחמה. מאי טעמא? ד"בית" כתוב  
בהו בכלהו.

ואין מערבין בו ואין משתתפין בו ואין  
מנחין בו עירוב. מאי טעמא – דלא חזו  
לדירה. עירובי חצירות אין מנחין בו,  
אבל שיתוף – מנחין בו.

מאי טעמא? דלא גרע מחצר שבמבוי.  
דתנן: עירובי חצירות – בחצר, שיתופי  
מבוי – במבוי.

And one does not render it an extension of the city limits when it is located **between two cities**.<sup>N</sup> Two cities between which there is a distance of more than 141 $\frac{1}{3}$  cubits cannot be joined and considered as a single city for the purpose of measuring the Shabbat limit for one city from the edge of the second city. However if there is a house equidistant between the two cities, i.e., a bit more than seventy cubits from each town, the house joins the two cities together for the purpose of measuring the Shabbat limit. A house in which there is an area of less than four by four cubits cannot serve this function; **and brothers and partners do not divide it**, as it is too small to be divided.

In answer to the question with regard to the identity of the *tanna* of the *baraita*, the Gemara says: **Let us say that the *tanna* of the *baraita* is Rabbi Yehuda HaNasi and not the Rabbis**, as it is Rabbi Yehuda HaNasi who holds that a *sukka* with an area of less than four by four cubits is unfit. The Gemara rejects this contention: **Even if you say that the *tanna* of the *baraita* is the Rabbis, the Rabbis say that a structure with an area smaller than four by four cubits is fit only there, with regard to a *sukka*, which is a temporary residence**, because in a temporary residence one is willing to confine himself to a small area. **However, with regard to *halakhot* relating to a house, which is a permanent residence, even the Rabbis concede that if it has an area of four cubits by four cubits, people reside in it**, as it is a functional house, **and if not, people do not reside in it**, and its legal status is not that of a house at all.

§ The Gemara briefly discusses the *halakhot* listed in the *baraita*: **The Master said that a house in which there is an area of less than four by four cubits it is exempt from the mitzva of placing a *mezuzah* on its doorpost, and it is exempt from the obligation of establishing a parapet around its roof, and it does not become ritually impure with leprosy of the house. And its sale is not rendered final in the same manner as the sale of houses within walled cities, and one does not return from the ranks of soldiers waging war for a house that size. What is the reason for these *halakhot*?** It is due to the fact that **"house" is written in the Torah with regard to all these *halakhot***. The legal status of a structure with an area of less than four by four cubits is not that of a house.

And by rabbinic law, **one need not join** the houses in the courtyards for a house with that area, **and one need not merge**<sup>N</sup> the courtyards that open into an alleyway for a courtyard in which the area of its only house is less than four by four cubits. **And one does not place the food collected for the joining of courtyards in this house. What is the reason for these *halakhot*?** It is due to the fact that **it is not fit for residence**. The point of the joining of courtyards is to transform the courtyard into a residence shared by the residents of all its member households, and this can be accomplished only by placing the joint food in a place whose legal status is that of a house. The Gemara infers this from the fact that it is taught in the *baraita*: **And one does not place the food of the joining of courtyards in this house,<sup>H</sup> but the food of the merging of alleyways, one places in it.<sup>H</sup>**

What is the reason for this distinction? It is due to the fact that **it is no less a residence than a courtyard in the alleyway**. An unroofed courtyard is not fit for residence, and nevertheless the food for the merging of alleyways may be placed there, as we learned in a *baraita* in tractate *Eiruvin* (85b): **The joining of courtyards may be placed in the courtyard and the merging of alleyways may be placed in the alleyway**.

NOTES

**עיבור – An extension of the city limits between two cities** – **בין שתי עירות**: This is a concept that is relevant with regard to the *halakhot* of the joining of borders. When determining the city limits of any given town, one considers as part of the city any house within a certain distance of the city. This distance is equal to a bit more than seventy cubits, or the square root of 5,000, to be precise. The Shabbat limit is then measured from that house. However, there are circumstances where an additional vacant area that size is added to the area of the city and the Shabbat limit is measured from there. When there is a distance of slightly less than twice that distance between the cities, the halakhic status of those towns is that of one town.

In this context, the early authorities disagreed whether, when the Gemara said that a house with an area of less than four by four cubits is not rendered an extension of the city limits when it is located between two cities, it means only with regard to merging two cities (see *Tosafot*), or perhaps it means that it does not even serve as an extension of one city (Rabbi Aharon HaLevi; Ritva). According to the latter opinion, when the Gemara said it does not render it an extension of the city limits when it is located between two cities, it meant to underscore that even in that case it is ineffective.

**עירוב ושיתוף – Joining and merging**: A joining of courtyards is placed in order to render the legal status of all the residents of a given courtyard like that of a family and thereby render it permitted to carry in the courtyard. For this purpose, jointly owned food is placed in one of the houses in the courtyard that is fit for residence, which renders its status like the joint residence of all the residents of that courtyard. The merging of courtyards is a similar procedure where food belonging to the families in different courtyards that open into a shared alleyway is placed in one of those courtyards, uniting all the residents of the alleyway into residents of the one courtyard. Since the purpose of the merging of the alleyways is to permit the use of the courtyards and not of the particular houses, as long as the food is placed in a secure place inside the courtyard, the merging has been established.

HALAKHA

**A location suitable for placement of a joining of courtyards – מקום הראוי להנחת עירוב חצירות**: One may place a joining of the courtyards only in a house fit for residence, and not in a gatehouse, a portico, or a veranda (*Shulhan Arukh, Orah Hayyim* 366:3).

**A location fit for placement of a merging of the alleyways – מקום הראוי להנחת שיתוף**: Food that was designated for establishment of a merging of alleyways may be placed in a courtyard or in a house with an area of less than four by four cubits (*Shulhan Arukh, Orah Hayyim* 386:1).

## HALAKHA

One who resides there does not render it prohibited to carry – **הדר שם אינו אוסר** – One who lives in a gatehouse, portico, or veranda in a courtyard, or in a house with an area of less than four by four cubits (*Peri Megadim; Shulhan Arukh HaRav*), is not considered to be residing in a full-fledged residence. Therefore, even if he fails to participate in the joining of the courtyards he does not prevent it from taking effect (*Shulhan Arukh, Oraḥ Hayyim 370:1*).

An extension of city limits between two cities – **עיבור בין שתי עיירות**: A house with an area of four by four cubits that stands a bit more than seventy cubits from the city limit, or from a house close to the city limit, is considered a part of the city for the purposes of determining the actual city limits and the Shabbat limit that extends beyond the city limits (*Shulhan Arukh, Oraḥ Hayyim 398:6*).

A house that is too small to be divided – **בית שאין לו דין חלוקה**: The owner of a house that has an area of less than four by four cubits does not receive four cubits at its entrance when dividing the courtyard, as its legal status is not that of a house (*Shulhan Arukh, Hoshen Mishpat 172:8*).

A courtyard that may be divided – **הצר הנתנת לחלקה**: One need not accept the demands of a partner to divide up a courtyard unless the courtyard is large enough for each of the partners to receive a portion measuring four by four cubits. The four cubits each partner receives for each entrance is not factored into the area of the courtyard (*Shulhan Arukh, Hoshen Mishpat 171:1, 3*).

Division of the courtyard according to entrances – **חלקת חצר לפי פתחים**: If one has a house in a courtyard with a single entrance and another has a house in that courtyard with multiple entrances, when dividing up the courtyard each owner receives four cubits per entrance. The rest of the courtyard is divided equally. The early authorities discuss whether this extends only to a courtyard that was originally ownerless (Rabbi Yosef Migash; Rambam; Rashi; and others) or even to an inherited courtyard (Rashi; Rabeinu Hananel; Rema; *Shulhan Arukh, Hoshen Mishpat 172:1*).

## BACKGROUND

Huts – **בורגנין**: These huts were small guard towers. Some were well built and were as well fortified as military fortifications. The official tasked with guarding the fields and reporting to the military authorities would live in these huts. There were also huts that were not built as sturdily, which were for temporary use.



Guard tower

והוינן בה: עירובי חצירות בחצר? והתנן: הנותן עירובו בבית שער אכסדרה ומרפסת – אינו עירוב, והדר שם אינו אוסר!

אלא אימא: עירובי חצירות בבית שפחצר, ושיתופי מבואות בחצר שבמבוי. והאי לא גרע מחצר שבמבוי.

ואין עושין אותו עיבור בין שתי עיירות – דאפילו בבורגנין לא משוינן ליה. מאי טעמא? בורגנין – חזו למילתייהו, והאי – לא חזו למילתייהו.

ואין האחין והשותפין חולקין בו. טעמא – דלית ביה ארבע אמות, הא אית ביה ארבע אמות – חולקין.

והתנן: אין חולקין את החצר עד שיהא בה ארבע אמות לזה וארבע אמות לזה!

אלא אימא: אין בו דין חלוקה בחצר. דאמר רב הונא: חצר לפי פתחיה מתחלקת. ורב חסדא אמר: נותן לכל פתח ופתח ארבע אמות, והשאר חולקין אותו בשוה.

And we discussed this *halakha*: How can the joining of courtyards be placed in the courtyard? Didn't we learn in the mishna: With regard to one who placed his joining of courtyards in a gatehouse or in a portico [*akhsadra*],<sup>1</sup> a roofed structure without walls or with incomplete walls, or on a balcony, it is not a fit *eiruv*. And one who resides there, in any of these structures, does not render it prohibited<sup>2</sup> for the homeowner and the other residents of the courtyard to carry, even if he did not contribute to the *eiruv*, as the legal status of these places is not that of a house.

Rather, emend the mishna and say: The joining of courtyards is placed in one of the full-fledged houses that is in the courtyard, and the merging of alleyways is placed even in one of the courtyards that opens into the alleyway. And this house whose area is less than four by four cubits is no less a residence than one of the courtyards that open into the alleyway.

It is taught in the *baraita*: And one does not render it an extension of the city limits when it is located between two cities.<sup>3</sup> The Gemara explains: This means that we do not even render its halakhic status like that of huts [*burganin*]<sup>4</sup> used by grain watchmen in the fields, which join the two cities between which they are located for the purpose of measuring the Shabbat limit. What is the reason that it is considered less a residence than a watchman's hut? The Gemara answers: Watchmen's huts, even though they are not sturdy, are suited for their matters, while this house with an area less than four by four cubits is not suited for its matter, as it is not fit for residence.

It is taught in the *baraita*: And brothers and partners do not divide a house that does not measure at least four by four cubits, as it is too small to be divided.<sup>5</sup> The Gemara infers: The reason that a house that size is not divided is due to the fact that there is not an area of four by four cubits in it; however, if there is an area of four by four cubits in it, they divide it.

The Gemara asks: But didn't we learn in a mishna: One divides the courtyard at the request of one of the heirs or partners only if its area is sufficient so that there will be in it four by four cubits for this partner or heir and four by four cubits for that partner or heir? Apparently, in order to divide a courtyard it must be at least four by eight cubits.<sup>6</sup>

Rather, emend the *baraita* and say that the *halakha* of division like that of a courtyard does not apply to it. As Rav Huna said: A courtyard is divided according to the number of its entrances.<sup>7</sup> When the residents of the houses in a courtyard divide the courtyard between them, the division is not based on the number of houses in the courtyard, nor is it based on the size of the houses. Instead, it is divided based on the number of entrances that open into the courtyard. Rav Hisda said: One gives the homeowner for each and every entrance four cubits, and the rest of the courtyard is divided equally among the residents of the courtyard.<sup>8</sup>

## LANGUAGE

Portico [*akhsadra*] – **אכסדרה**: From the Greek *ἄξεδρα*, *exedra*, meaning entranceway, an example of which would be an open veranda.

Huts [*burganin*] – **בורגנין**: The origin of this word is not clear. Some suggest that it is derived from Greek, and others suggest

that it is related to the German *burg*, meaning fort or small settlement. The German word reached the Sages by means of Roman soldiers stationed on the German border, from where it traveled through the Roman Empire to its eastern borders, in Eretz Yisrael and Babylonia.

## NOTES

A courtyard...according to its entrances – **חצר לפי פתחיה**: This *halakha* is discussed in tractate *Bava Batra* and the commentaries discuss its details. Is this referring to partners willingly dividing a courtyard, or to heirs, or even people who claimed and built upon ownerless land? Similarly, there is a dispute whether

according to its entrances means the number of doorways in a house, even when there are multiple doorways in a single house; or whether it means that each house is counted as having one entrance (Rambam; Rabbi Aharon HaLevi; Ritva; Rabbi Yosef Migash; *Tur*; Rashba; and others).

Diminishing the height of a *sukka* with cushions and blankets – מיעוט גבה הסוכה על ידי כרים וכסתות – One cannot diminish the interior airspace of a *sukka* more than twenty cubits high by placing cushions and blankets on its floor, even if he designates them exclusively for that use. Some authorities rule that floor rugs may be designated for that use and do diminish the airspace (*Biur Halakha*); others disagree (*Shulhan Arukh, Oraḥ Hayyim 633:3*).

דהני מילי – בית דלמהוי קאי, יהינא ליה חצר. האי דלמיסתר קאי – לא יהבינן ליה חצר.

The principle that entrances are factored into the division of a courtyard **applies only** with regard to a **house that stands to endure**, as the owner needs use of the yard to ease access to his house, so **we provide him** with four cubits according to Rav Ḥisda, or part of the **courtyard** according to Rav Huna. However, in the case of **this small house, which stands to be leveled**, its owner has no need for the adjacent courtyard, so **we do not provide him** with any part of the **courtyard**, as if it were not even there.

היתה גבוהה מעשרים אמה ובא למעטה בכרים וכסתות לא הוי מיעוט.

§ With regard to the *halakha* in the mishna that a *sukka* more than twenty cubits high is unfit, the Gemara states: If the *sukka* was **more than twenty cubits high and one comes to diminish its height by placing cushions and blankets on the floor, it is not a decrease of halakhic significance**. It does not render the *sukka* fit, because in that case one is concerned that the bedding will be ruined and therefore does not intend to leave it there very long.<sup>h</sup>

NOTES

If one placed straw and nullified it – תבן ובטלו – The commentaries discuss both the manner and the timing of the nullification. In terms of the manner, the question is whether it must be stated verbally or it is sufficient to indicate that it is his intention to nullify it with his actions (see Rashi and others). In terms of the timing of the nullification, some hold that it is sufficient to nullify the straw or dirt for the duration of the Festival alone (Rashi; Rosh; Ran), while others hold that he must nullify it forever, with the intention that it remain there forever (Rashba; Rabbeinu Ḥananel; *Mordekhai*).

HALAKHA

With what materials does one diminish the height of a *sukka* – במה ממעטים הסוכה – If one diminishes the interior height of the *sukka* by placing straw on the floor and nullifying it, that diminution is effective and the *sukka* is fit. Certainly the same holds true for dirt nullified in that manner. However, if he placed undesignated straw or dirt inside the *sukka*, then the height is diminished only if he nullifies it verbally, in accordance with the opinion of the Rabbis (Rif; Rambam; Rosh). This diminution takes effect immediately, and one need not move the roofing in any way (*Me'iri; Peri Megadim; Shulhan Arukh, Oraḥ Hayyim 633:4*).

A house that one filled with objects – בית שכלאוהו – בהפצים: A house filled with straw or dirt nullified by its owner is considered completely filled, and its halakhic status is not that of a tent with regard to ritual impurity imparted by a corpse. If the straw or dirt was not nullified, the status of the house is that of a tent with regard to ritual impurity imparted by a corpse in a tent (*Rambam Sefer Tahara, Hilkhot Tumat Met 24:3*).

If a *sukka* was more than twenty cubits high but the ends of the palm leaves fall within twenty cubits – היתה גבוהה מעשרים אמה והוצין יורדין בתוך עשרים אמה: If a *sukka* is more than twenty cubits high and branches from the roofing fall within twenty cubits of the ground, and the shade provided by the branches hanging down is greater than the sunlight that passes through them, the *sukka* is fit, in accordance with the conclusion of the Gemara (*Shulhan Arukh, Oraḥ Hayyim 633:2*).

LANGUAGE

Ends of palm leaves [*hutzin*] – הוצין: From the Arabic *khūs*, meaning the leaf of a palm tree. Its usage was expanded to include loose branches of all sorts of growths, as well as splinters from other trees.

Perek I

Daf 4 Amud a

ואף על גב דבטליניהו [לכולהו], משום דבטלה דעתו אצל כל אדם.

And even though he nullified them all, intending that for the duration of the Festival the halakhic status of these cushions and blankets is nothing more than that of dirt, it is not deemed a fit nullification because his intention is rendered irrelevant by the opinions of all other people. People do not typically do so, so the action of one who does so is discounted.

תבן ובטלו – הוי מיעוט, וכל שבן עפר ובטלו.

If one placed straw on the floor of his *sukka* in order to diminish its height, and verbally nullified it<sup>h</sup> by saying that he will not use it for another purpose, it is a decrease of halakhic significance, as the halakhic status of adding straw is like that of adding dirt to the *sukka* floor and diminishing its height. The same is true, all the more so, if he placed dirt on the *sukka* floor and nullified it.<sup>h</sup>

תבן ואין עתיד לפנותו ועפר סתם – מחלוקת רבי יוסי ורבנן, דתנן: בית שמילאהו תבן או צורות ובטלו – מבוטל.

A case where one placed straw on the *sukka* floor and he does not intend to evacuate it from there, although he did not nullify it, and a case where one placed undesignated dirt that was not nullified, are the subject of a dispute between Rabbi Yosei and the Rabbis with regard to whether the actions alone are effective as nullification. As we learned in a mishna: In a house in which there is a corpse or an olive-bulk of a corpse, the *halakha* is that if there is a handbreadth of space between the corpse and the roof, the roof serves as a barrier that prevents the ritual impurity from spreading beyond the roof. However, if there is less than a handbreadth of space between the corpse and the roof, the roof does not serve as a barrier, and the ritual impurity spreads upward. In a house of that sort where one filled the space between the corpse and the roof with straw or pebbles mixed with clods of dirt, and then nullified the straw or dirt, it is effectively nullified, and the ritual impurity spreads upward.

ביטלו – אין, לא ביטלו – לא. ותני עלה, רבי יוסי אומר: תבן ואין עתיד לפנותו – הרי הוא כעפר סתם, ובטל. עפר ועתיד לפנותו – הרי הוא כסתם תבן, ולא בטיל.

By inference, if he explicitly nullified it, yes, it is nullified; if he did not nullify it, no, it is not nullified. And it is taught concerning this mishna in the *Tosefta* that Rabbi Yosei says: If one placed straw on the *sukka* floor and he does not intend to evacuate it, its halakhic status is like that of undesignated dirt and it is nullified. If he placed dirt on the *sukka* floor and he does not intend to evacuate it, its halakhic status is like that of undesignated straw, and it is not nullified.<sup>h</sup> Apparently, the *tanna'im* already discussed this matter.

היתה גבוהה מעשרים אמה, והוצין יורדין בתוך עשרים אמה, אם עלתם מרובה מתמתם כשרה ואם לאו פסולה.

If a *sukka* was more than twenty cubits high, but the ends of the palm leaves [*hutzin*]<sup>h</sup> fall within twenty cubits,<sup>h</sup> then the following distinction applies: If the shade provided solely by the leaves within twenty cubits of the ground is greater than the sunlight in the *sukka*, it is fit. If not, it is unfit.