

מִצְוֹת
עֲשֵׂה

#246



We learn this mitzvah from Parshas Mishpatim: (שמות כב:ח)

עַל כָּל דְּבַר פֶּשַׁע וְגוֹ'
אֲשֶׁר יֵאמַר כִּי הוּא זֶה

In today's *mitzvah* we learn (like the past few days) that if there are ever people who have an argument about money or belongings, then *Beis Din* has a *mitzvah* to decide what should be done, according to the rules of the Torah.



The details of this mitzvah are explained in Mishnayos & Gemara: **Mesechta Bava Kama perek Gimmel, beginning of Mesechta Bava Metziah and perek Ches, and Mesechta Shevuos perakim Hey, Vov, and Zayin.** Many questions about this are all over Gemara.

R' Nechunya ben Hakana was a rich, but humble Talmid Chochom, who lived at the time of the second Beis Hamikdash. He became one of the first Tannaim, the Chachomim who taught the Mishna. He wrote a sefer on Kabbalah (called the Bahir), and also the tefillah of Ana Bokoach, the paragraph that hints to the 42-letter name of Hashem.

R' Nechunya ben Hakana lived for a very long time. His students once asked him, "What zechus did you have that you lived for so long?"

R' Nechunya answered that it was because of three things:

- 1) He would not take *kavod* at the expense of someone else.
- 2) He never went to sleep when he was upset at someone. First he forgave the person, and then went to sleep.
- 3) He never had an argument about money — instead, he would just forgive the money that was owed to him.

The *Gemara* brings an example of this kind of thing from Iyov: When Iyov went shopping, he would never ask for the change if the storekeeper didn't give it to him. He wasn't worried about keeping all his money for himself.

See Gemara Megillah 28a, cited in "Mesechta Shel Tefillah" p. 244

Rambam: Hilchos To'ein Venit'an

PEREK YUD-GIMMEL

Here's a case that could come before *Beis Din*: Reuven was living in a house for a long time, and Shimon came to him and said, "What are you doing in this house?! It's mine!" What does the *Beis Din* do?

There's a big problem here — Reuven doesn't have a contract to show that the house is his! He didn't keep the paper!

So *Beis Din* will believe Reuven, and let him stay in the house, because of something called "*chazaka*" — if a person was living in a house or using a field for 3 years, with other people knowing, that proves it belongs to him — because otherwise Shimon would have told him to move out a long time ago!

But there are some people where this is not a proof — like business partners. These people might not mind if their partner is using their house, but it doesn't mean that they should be able to keep it forever! There is a different *halacha* for them — Shimon needs to prove the house used to be his, and needs to make a special kind of *shevuah* that he didn't give it away or sell it.

PEREK YUD-DALED

In *Perek Yud-Daled*, one of the things we learn is that even if a person CAN'T use *chazaka* to prove that the property is theirs, they can bring witnesses to show that they bought it.

But a robber can't do that either! If he once stole a field, the *Beis Din* will never be able to trust him, because maybe the person only pretended to sell the field to him because he was scared of him, since he is a robber!

PEREK TES-VOV

Perek Tes-Vov teaches us what to do when witnesses come to *Beis Din* to say that the person has a *chazaka* on the property, but they don't say exactly the same thing. If one person says he grew wheat for three years and the other witness says he grew barley, we accept the witnesses, because that is a small detail. But if one witness says he worked there during the odd years, and the other witness says he worked there during the even years, then we don't have any witness to say he has a *chazaka*, and he has to give the property back!