

Overview

Siman 325 Seif 11:

If a gentile plucked herbs for his animal, if one does not know him a Jew may feed his animal from the leftovers by standing in front of his animal so that it will be forced to walk in that direction but it is prohibited to stand the animal on the plucked grass out of concern that he will take it by hand and feed it to his animal and the herbs are *muktzah*. If the Jew knows the gentile it is prohibited. The same is true concerning any circumstance in which there is concern that the gentile would do more *melacha* for the benefit of the Jew but when there is no such concern, e.g., if he kindled a lamp for himself or if he made a ramp it is permitted since one lamp or ramp is sufficient for his needs.

- ❖ According to the lenient opinion above even if the herbs were plucked for the Jew it is permitted provided that the animal could eat from attached herbs. Other *Poskim* do not draw this distinction and *halacha* follows their position but in a pressing circumstance in which one does not have herbs to feed his animal one may rely on the lenient authorities and may ask a gentile to feed his animal even if the herbs were plucked for a Jew or if the gentile drew water from the river. (M.B. 64)
- ❖ Since Shulchan Aruch did not differentiate it seems that even if the Jew is not present it is prohibited provided that the gentile knows the Jew and this is the position of many authorities. Some authorities adopt a stringent position and maintain that even if the gentile already performed the *melacha* without realizing that the Jew needs the *melacha* to be performed it is prohibited out of concern that if the Jew benefits from the *melacha* he will perform the *melacha* in a greater quantity in the future but in a time of need one may be lenient. (M.B. 66)
- ❖ One need not wait בכדי שיעשו. (M.B. 67)

Siman 325 Seif 12:

Even if the gentile does not know the Jew if he declares that he performed the *melacha* for the benefit of the Jew or even if he does not make such a declaration but it is evident from his actions that he performed the *melacha* for the Jew, for example, he kindled a lamp in a Jew's home and left, it is prohibited.

- ❖ It is prohibited for the Jew even if the gentile initially benefited from the *melacha* he performed. (M.B. 69)
- ❖ The implication is that if the gentile did not leave it would be permitted for the Jew to benefit after the lamp was kindled since it would be assumed that he kindled the lamp out of self-interest. (M.B. 70)

Halacha Highlight

A gentile who performs a *melacha* for the benefit of a Jew

Shulchan Aruch Siman 325 Seif 11
 לקט אינו יהודי עשבים לצרך בהמתו

If a gentile plucked herbs for his animal

Shulchan Aruch (סעי' י"א) rules that if a gentile picked herbs to feed to his animal on Shabbos, it is permitted for a Jew to feed his animal those extra herbs, provided that the gentile does not know the Jew so that one would have to suspect that the gentile picked extra herbs for the benefit of the Jew. Mishnah Berurah (ס"יק ס"יא) notes that according to the lenient opinion above that maintains that any time the benefit of the *melacha* could have been obtained in a permitted manner, it is not prohibited for a Jew to benefit from the *melacha* performed by the gentile, in this case as well if there are herbs available for the Jew's animal to eat, it is not prohibited for the Jew to allow his animal to eat the herbs that were plucked by the gentile on Shabbos, even though the gentile intended to benefit the Jew as well.

Mishnah Berurah (שם) then notes that even according to the above cited lenient position one may not ask a gentile to perform a *melacha* to benefit a Jew, even though that benefit could be obtained in a permitted manner since one may never instruct a gentile to perform a *melacha* that is Biblically prohibited. Consequently, one may not ask a gentile to draw water from a pit that is categorized as a private domain to the public domain that surrounds it since transporting water from a private domain to a public domain transgresses a Biblical prohibition. Sha'ar HaTziyun (ס"יק ס"יד) however, notes that this prohibition is not so clear. If one assumes that there is room for leniency in a circumstance that potentially involve an animal suffering, why should one not be lenient even when a gentile performed what is considered a Biblical *melacha* and it should be permitted to give the excess water that the gentile drew from the private domain to the public domain? He suggests that perhaps the Chay Adam who is the source for this ruling was no so confident with this principle so he did not want to be lenient when an actual Biblical *melacha* is involved.

Siman 325 Seif 13:

If a gentile plucked herbs and fed them to a Jew's animal he need not protest that time but if he becomes accustomed to doing so it is prohibited.

- ❖ It is assumed that he has his own self-interest in mind (to receive remuneration) rather than the benefit of the Jew and that is the reason one need not protest. The same is true (that it is prohibited) if the Jew instructs him to feed his animal even though the herbs were not plucked with the Jew's animal in mind. (M.B. 71)