



# HEMDAT YAMIM

חֲדָשָׁה יְמִימִים

Parashat Hashavua

Chukat, 3 Tamuz 5782

Harav Shaul Israeli zt"l  
Founder and President

## What Happened in Meidva? Harav Yosef Carmel

Our *parasha*, in its poetic part (Bamidbar 21:30), describing the geopolitical situation, mentions a city called Meidva. The place is also mentioned in Yehoshua (13:9) and Yeshayahu (15:2), as a central city in the Moavite region of Transjordan. In the past, we have discussed the cruel capture of the Land of Moav at the hands of Sichon, King of the Emori and his sins against the women of Meidva. (138 years ago, an ancient (apparently from the Byzantine period) mosaic was found in biblical Meidva that depicts *Eretz Yisrael* and highlights the area around Yerushalayim.) Surprisingly, though, in Divrei Hayamim (I, 19:7), Meidva is described as a city of Amon, not Moav.

Let us explain what might have happened. After Nachash, the King of Amon died, David sent a delegation to console his son, Chanun. The delegation returned after having been harshly disgraced (Shmuel II, 10:1-5). David decided to punish the Amonites, and he sent an elite brigade led by Yoav and Avishai to Amon and its capital, Rabba (ibid. 7). The Amonites, who were concerned about David's possible reaction, hired more than 30,000 Aramite soldiers to protect them (ibid. 6). In that narrative (ibid. 8), it appears that the battle took place outside of Rabba. However, in Divrei Hayamim (I, 19:6-9) it is clear that it was outside of Meidva, and it says that Amonite fighters emerged from that city.

As the battle took shape, it says that Yoav and Avishai found themselves trapped in an ambush between the forces of Amon and the mercenaries from Aram. Yoav, in his famous charge and words of encouragement to his brother Avishai (ibid. 10-13), broke the forces into two but kept them responsive to the needs of the other unit. How is it that a general as experienced as Yoav allowed himself to be ambushed?

Let us advance the following theory. Yoav decided to surprise the Amonites and to approach Rabba after taking a detour to the south. They left Yerushalayim on the Path of the Patriarchs, going south to Chevron (perhaps praying in *Me'arat Hamachpela*) and then turning east and crossing the border at the Dead Sea at a point where there is either a dry patch or very low water. They then passed through the Land of Moav, which was to the south of the Land of Amon. The Amonites uncovered the plan and put the Aramite forces to the south of the Moavite city of Meidva and their own army within the city of their Moavite neighbors. This cooperation between the three nations created a dangerous situation for Yoav. Only with Divine Assistance, great dedication, and deep belief did the trapped forces of David (the original IDF, if you will) escape.

If this is what happened at Meidva, we understand why David treated the Moavites so harshly after he triumphed over them (see Shmuel II, 8:2).

Let us pray for the success and safety of our current IDF, who protect our Land and our people.

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**Those who fell in wars for our homeland. May Hashem avenge their blood!**



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# Ask the Rabbi

by Rav Daniel Mann

## Finding a Fruit with *Kedushat Shvi'it*

**Question:** My wife shopped at a special *kedushat shvi'it* fruit distribution. A few hours later, I spotted on the walkway to our building (of seven apartments) a single fruit. I took it home and asked my wife, who said it made sense that it fell from her, but asked how we can know it is not from a neighbor who might have also bought. Do I have to put up a sign or ask neighbors (whom I trust) if it could be theirs? Is it more lenient because there is no ownership of *kedushat shvi'it* fruit?

**Answer:** Let us take off the table the confusing matter of *kedushat shvi'it*. The field owner is required to treat his fruit as *hefker* (ownerless). There is a *machloket* whether it is automatically *hefker* based on divine decree (Shut Hamabit I:11; see Bava Metzia 39a) or whether it occurs only after the owner is, properly, *mafkir* (Avkat Rochel 24). When one permissibly receives fruit for consumption, he does become owner of the fruit, with *kedushat shvi'it* dictating *halachot* of its consumption and treatment. For that reason, a man is able to use fruit with *kedushat shvi'it* to marry a woman (Kiddushin 52a; see Rashi ad loc.) even though this requires the *chatan's* ownership. Only at the time of *bi'ur* (when the fruit are no longer available in the field) must one temporarily return them to *hefker* (see Derech Emuna, Shemitta 7:17). Therefore, the *kedushat shvi'it* status will not make a difference.

Do you have to worry that it is someone else's fruit? Your wife is not sure it is yours because this fruit, like most, has no *siman* (identifiable sign). By all indications, had it fallen from anyone else, they also would not have a *siman*. In such a case, Halacha assumes that the owner gave up hope of reclaiming it (*yei'ush*), as an honest finder will not be able to find and confirm the owner. We rule that *yei'ush shelo mida'at* (a person will have *yei'ush* when he finds out of the loss but this has yet to occur) is ineffective, as the *yei'ush* must precede the finder picking it up (ibid. 22b). Therefore, for it to be permitted to take it, one would have to assume that the owner realized that the fruit fell. We *pasken* one may make this assumption (Shulchan Aruch, Choshen Mishpat 262:7) even though it is not a simple assumption (see S'ma ad loc. 15). Therefore, you are permitted to keep it.

Does the concern of your wife, who is not even sure if she lost such a fruit, that perhaps it does belong to a neighbor beckon for taking steps beyond the letter of the law? The Shulchan Aruch Harav (Metzia 18) does say this is proper even after *yei'ush* and with no *siman*. However, this is only when the finder finds out who lost it; he does not have to announce his find. In some ways your need might be more compelling, as you have the list of candidates effectively down to six trustworthy people, so might it still be worthwhile?

In another way, your rights are much greater than the average one, because there is strong reason to think it is yours. In fact, even if a neighbor would have seen you picking up the fruit and demanded it back due to the possibility he dropped it, he would not be able to extract it from you without proof. You can then take comfort in the answer to the Mahari Basan's famous question (cited in Kuntras Hasefeikot I:6) about the *halacha* that Reuven who is in possession of something does not have to give it to Shimon who makes a claim with insufficient proof, even if Reuven is unsure what the truth is. Why don't we require Reuven to give it up due to the doubt that he might be stealing from Shimon? The most accepted answer is that once we determine who has rights to it based on the rules of monetary Halacha, the prohibition of stealing does not apply. Here too, if no neighbor is expected to be able to prove himself more deserving than you, you have no reason for concern.

If you want to try to return, not out of concern but out of love of going beyond the Halacha in monetary matters, that it is a different story. However, it would seem that such steps are more appropriate in cases that make a difference to people, not a single fruit.

**Do not hesitate to ask any question about Jewish life, Jewish tradition or Jewish law.**



# Igrot HaRe'aya - Letters of Rav Kook

## Interceding Regarding a Will - #105

**Date and Place:** 28 Tevet 5668, Yafo

**Recipient:** Shmuel Hakohen Kook, Rav Kook's brother

**Body:** Yesterday, I wrote to you along with the manuscripts I sent. I hope you received them. I am sending this letter to you with a messenger who is bringing the manuscript of the Tikkunei Zohar (with many notes of Rav Avraham, Rav Kook's maternal great-grandfather). Certainly when it is typeset, I hope they will send me the galleys, so that I can proofread and perhaps make some comments, as there are times that our great-grandfather *z.t.l.*'s writings require explanation, as I learned from his notes on the Zohar, which Aryeh Leib Horowitz started working on.

Regarding [the request from me of] an article to attach to the Mesilat Yesharim, that would be a job that is a very great honor, to join up with that lofty, holy author *z.t.l.*, who was a storehouse of wisdom. I still have not decided what the proper approach is to take in that holy project. May He Who grants wisdom send me a good idea on the matter.

Let me just take the opportunity to ask you to help out on a matter of a *mitzva*. The messenger bringing this letter told me that his father wrote a will. From what he has heard, his father did not leave anything to the messenger's elderly mother (except the small amount her *ketuba* is worth). This is a believable possibility because the relationship between the couple has always been very strange, may things like that not occur to us. If I would have known that this was happening, I would never have allowed such a will to have been written, and I would have used any type of moral coercion that I have at my disposal. It is true that this is beyond the letter of the law, but there are opinions that it is permitted to coerce according to the judgment of the *dayan* that this is the correct path; my practice is to do this at times. So now, it is a great *mitzva* to take action concerning this older gentleman, so that he will agree to change this part of the will. Let him leave the decision of [how much to leave to her] until after he has completed his long life, according to the level of honor with which he always was in the practice of supporting her.

I hope that you will take the opportunity to act on this matter as well as you can. I am sure you will forgive me for the toil involved in doing so. I am well aware of your good nature, thank G-d.

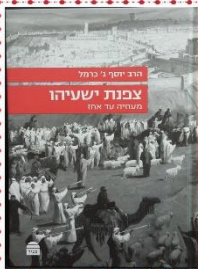
*We daven for a complete and speedy refuah for:*

**Nir Rephael ben Rachel Bracha**  
**Yisrael ben Rivka**

**Arye Yitzchak ben Geula Miriam**

**Neta bat Malka**  
**Meira bat Esther**

*Together with all cholei Yisrael*



### Tzofnat Yeshayahu- Rabbi Yosef Carmel

The Prophet Yeshayahu performed in one of the most stormy and dramatic periods of the Israeli nation's life, a period of anticipation for the Messiah that was broken by a terrible earthquake, and also caused a spiritual and political upheaval. The light at the end of the tunnel shone again only in the days of Chizkiyah.

"Tzofnat Yeshayahu – from Uziya to Ahaz" introduces us to three kings who stood at this crossroad in our nation's history: Uziya, a king who sought God but was stricken with leprosy because of his sin; Yotam, the most righteous king in the history of our people; And Ahaz, the king who knew God but did not believe in His providence.

In his commentary on the prophecies of Yeshayahu, Rabbi Yosef Carmel, Head of the Eretz Hemdah-Gazit rabbinical court and a disciple of Rabbi Shaul Israeli zt"l, clings to the words of Hazal, our sages, and to the commentaries of the Rishonim, the great Jewish scholars of the middle ages, and offers a fascinating way to study Tanach. This reading attempts to explain the Divine Plan in this difficult period and to clarify fundamental issues in faith. Tzofnat Yeshayahu reveals to the reader the meaning of the prophecies in the context of the prophet's generation and their relevance to our generation.

**Buy Now**

# P'ninat Mishpat

## Demand of Top-Quality Merchandise from Supplier

(based on ruling 81005 of the Eretz Hemdah-Gazit Rabbinical Courts)

**Case:** The defendant (=def) agreed to buy *etrogim* from the plaintiff's (=pl) orchard at a price of 18 NIS a piece from grade C and above. Five harvests were done involving *etrogim* for def, and regarding the fourth and fifth, def refused to take any with the claim that too many of them were only grade C, against what had been promised. There were 2,100 *etrogim* that def refused to take, and pl succeeded in selling only a small portion of them. Def points to the phrase in the contract that the *etrogim* will be "to the buyer's satisfaction." Pl said that this only meant that def had to agree that they were at least grade C, in which case def had to take them for 18 NIS a piece.

**Ruling:** The sides signed a contract, and there is no evidence that an act of *kinyan* that works for movable objects was done. Def paid 10,000 NIS, but payment is not a *kinyan* for movable objects. On the other hand, the contract says that the transaction was on "the tree in regards to its fruit," so that payment should be a valid *kinyan* for things attached to the ground (Shulchan Aruch, Choshen Mishpat 190:1). Even if the payment was done by bank transfer, that should work as *situmta* (an accepted way of doing *kinyan*). According to most *poskim*, this works even when only partial payment was made (Aruch Hashulchan, CM 190:3, as opposed to S'ma 190:1). In this case, the *kinyan* took effect only in regard to fruit of at least grade C, which is valid even though it is a *kinyan* on an object in regard to its fruit (Bava Batra 63a).

Regarding the meaning of "to the buyer's satisfaction," *beit din* accepts pl's explanation, because it is more logical in the situation in which the sides did not discuss its meaning. In the context of the contract, it was discussing whether the *etrogim* are marketable or not, and grade C *etrogim* are definitely marketable.

Def claimed that there is a custom among merchants that buying a crop is conditional on its quality. The expert whom *beit din* hired said that it is not possible to talk about a custom on a matter like this because it is rare for a person to buy the entire produce of an orchard and leave the work in the orchard in the hands of the orchard's owner.

Def also claimed that there would be *ona'ah* (mispricing) if he had to take all the reasonable *etrogim* because grade C *etrogim* are not worth 18 NIS, and in this case, their percentage in the crop was too high. This claim is not applicable here for a couple of reasons. First, *ona'ah* does not apply to land or that which is attached to the ground. Also, there is a *machloket* whether there is *ona'ah* when the price is not set at the time the transaction took place (on fruit that had not yet grown) (see Beit Yosef, Bach, and Shach, CM 209:1). Finally, when, along with the possibility of loss, there is also a possibility of great gain, there is also a *machloket* (Maharashdam 379; Maharshach III:62) if *ona'ah* applies, and many *poskim* agree that it does not.

Therefore, def is required to pay for every *etrog* from grade C and above.

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