



## Sicha Summary

Chelek 19 | Eikev | Sichas 3

### The Context:

In *parshas Eikev*, the Torah records how G-d told Moshe in the aftermath of the breaking of the tablets, “Hew for yourself two tablets of stone like the first.” (*Devarim* 10:1) From the phrase “for yourself,” the Talmud deduces that “their waste shall be yours,” meaning, the fragments left over from hewing the tablets personally belonged to Moshe. This was the source of Moshe’s personal wealth, as the tablets were cut from sapphire. (*Nedarim* 38a)

The final Mishnah of tractate *Bava Kamma* deals with the ownership of materials that are left over after labor has been performed with them. Do the remnants belong to the laborer (the carpenter or tailor, for example) or to the customer? The Mishnah teaches that if they are insignificant, the laborer can take them, but if they are significant, they still belong to the customer. The Mishnah concludes, “And if he was doing his work in the customer’s domain, then even the sawdust belongs to the customer.” (*Bava Kamma* 118a) Commenting on this, the Talmud cites a Beraisa: “Stone chisellers are not in violation of the prohibition against robbery.” They are entitled to take the leftover rock fragments. However, regarding those who prune trees and do other agricultural labor, the law is dependent upon the owner’s preference: If the owner is particular about the plant trimmings, the workers may not take them. If the owner does not care for the trimmings, the items belong to the workers. (*Ibid* 119b)

The Rebbe Maharash, in a short commentary on this passage of *Bava Kamma*, asks the following question: If stone chisellers are entitled to leftover rock fragments, why did Moshe need G-d’s explicit permission

“take for yourself”) to take possession of the leftover fragments of the tablets? He answered that the Beraisa speaks only of ordinary stone. The tablets, however, were made of expensive sapphire, and therefore, Moshe could not take the fragments without G-d’s explicit approval.

### **The Explanation:**

To gain a deeper understanding of the question and answer of the Rebbe Maharash, we need to look more closely at the Beraisa. The same teaching appears in the Tosefta, but with an important difference: The Tosefta applies the above-mentioned principle — that ownership depends on the owner’s preference — to both stone work and agricultural work. (*Tosefta Bava Kamma* 11:18) The Beraisa, on the other hand, only says that this principle applies to agricultural labor. It does not make this distinction regarding stone work, implying that leftover stonework automatically belongs to the worker. What could be the reason for this dispute?

The Tosefta was compiled in the academy of Rebbi in the land of Israel, while the Beraisos were compiled outside the Land of Israel, presumably in Babylon. (See *Sefer Hakrisus* and *Maharik*, cited in *Kitzur Kelali HaTalmud*) Stones were rare in Babylon, but plentiful in the land of Israel, and used there in construction. (*Rashi* to *Bereishis* 11:3; *Devarim* 8:9) Thus, in the land of Israel, an owner had good reason to care about stone fragments, because stones were a useful commodity. In Babylon, however, leftover stone did not present the owner with much useful potential, as stone was not used in construction.

Thus, the Beraisa grants ownership of leftover stone to the laborer, while the Tosefta maintains that it depends on the will and desire of the owner.

Stones are rare in the desert as well. Therefore, the Rebbe Maharash assumed that in the desert the law should follow the Beraisa, which says that leftover stone belongs to the laborer. Moshe, who was in the desert, would have a rightful claim to the remnants, without any need for consent from the owner, G-d. The answer remains the same: being that the stone

was valuable sapphire, the law that the owner decides if he wants to keep it for himself or give it to the laborer does not apply.

### **An Alternative Explanation:**

Another way to understand why G-d had to explicitly give the leftover sapphire to Moshe is based on the tablets being the property of the Jewish people. Since the tablets themselves were communal property, it is reasonable to assume that so were its remnants. G-d, therefore, had to explicitly draw a distinction between the stone tablets and their leftover fragments, and tell Moshe that “their waste shall be yours.”

### **The Deeper Dimension:**

The Talmud in *Nedarim* continues that in addition to the remnants of the tablets, G-d also gifted Moshe the ability for “profound analysis” of Torah, and Moshe shared that gift with the Jewish people.

What is the connection between the leftover remnants of the tablets and the profound analysis of Torah?

The first tablets, being the work of G-d exclusively, were perfect. This represents Torah that contains no doubts and difficulties. “Profound analysis” — the search for truth through a maze of questions — was initiated with the second tablets, which were quarried by Moshe. This realm of questioning is the “leftover remnants” of the tablets — that which is not essential to the thing itself. But by exertion and effort to find clarity in an opaque Torah, we reach the highest dimension of Torah, even higher than the first iteration, given by G-d.