



TORAH VEHA'ARETZ

INSTITUTE

BY RABBI MOSHE BLOOM

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Leveling The Ground During The Shemitah Year

Question: Our lease will end in the middle of *shemitah*. We have a patch of dirt between two trees where my son made a fish pond (he dug a hole, we put down a plastic lining, and filled it with water and fish). At the end of the lease we will need to refill the hole with dirt.

Do you think that poses any *shemitah* problems? You mentioned it would be a problem of *marit ayin* to prepare dirt before laying synthetic grass. This seems like a similar situation.

Answer: The *Rishonim* dispute whether plowing (*charishah*) is a Torah or rabbinic prohibition. For this reason, we are stringent with plowing as a possible Torah prohibition. Any action whose goal is to enhance the ground or prepare it for sowing is forbidden. Preparing the soil for sowing does

not only apply if we actively plan to sow; it includes leveling the ground so if we would want to sow or plant there in the future, it will be easier. This is forbidden.

As an aside: if someone wants to level the ground to lay synthetic grass, it is permitted vis-à-vis the plowing prohibition. However, there is a problem of *marit ayin*, appearances: people might not know that I am leveling the ground to lay synthetic grass. However, if I place a roll of synthetic grass near the dirt work area, it will be clear to all what the purpose of the ground leveling is and it then would be permitted.

In the case at hand: filling the ground is halachically considered plowing that facilitates sowing, so it is forbidden during the *shemitah* year.

There are two practical solutions:

You can tell the landowner that due to plowing prohibition during *shemitah*, you cannot refill the hole. If the landowner is observant, you can give him our number and we can explain the halachic issue.

You can uninstall the pool over the next few months and refill the hole prior to the *shemitah* year, up until 29 *Elul*. I believe that this is the preferable option. ■

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