



Removing a Roof During *Shemita*

Regarding plants grown within a closed structure, *poskim* disagree over the permissibility of actual planting, but generally permit Rabbinically-prohibited labors. The current article considers the question of plants that grew, or were actually planted, under a roof that was subsequently removed. There is a significant dispute between two later authorities regarding the status of such plants, as well as practical applications.

Halachic authorities maintain that a potted plant found under an apparent temporary roof, such as a camping tent which will be removed within a few days, is not considered as being within a closed structure in regards to *shemita* (see *Mishpetei Eretz* 7:4). The dispute between *Chazon Ish* and Rav Auerbach is regarding a roof that is structurally permanent but is then removed at some later point during

shemita, or even afterwards.

The opinion of the *Chazon Ish*

The *Chazon Ish* (22:6) ruled that in such a case of removing a roof, which was constructed to remain permanent, the potted plants are no longer considered as if they grew indoors, and all laws of *shemita* pertain to them retroactively. Furthermore, if the potted plants were actually **planted** during *shemita*, it would be equivalent to having planted them outdoors and they would become prohibited. Accordingly, he rules that even during the eighth year it would be prohibited to remove the roof, since one has then retroactively planted on *shemita*! The *Chazon Ish* adds that the action of removing the roof is itself considered a derivative of planting, since it is as if the plant is now being newly planted.

The *Chazon Ish* also explains that in a case where the roof came off by accident, such that there was no intention of benefiting the plants, there is no prohibition of retroactive planting. However, the plants

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immediately acquire *kedushat shevi'it* and the prohibition of *sefichin* applies.

The opinion of Rav Shlomo Zalman Auerbach

Rav Auerbach disagrees with numerous aspects of the ruling of *Chazon Ish* (*Minchat Shlomo* 1:41, 3). Consistent with his rulings in other areas of *hilchot shemita*, that agricultural labor when not done in the normal form (e.g. planting seeds or small plants in the ground) is a much more lenient Rabbinic transgression, Rav Auerbach concludes that if such “labor” was done without intention to improve the status of the plants it is certainly permitted. Since the act of removing a roof is not the original form of planting, it is therefore only a weak prohibition. Perhaps when the intention is not to improve the plants, removing the roof would be permissible. However, it would be improper to plant with the full intention of subsequently removing the roof.

Rav Auerbach rules that in a case where one intended to remove the roof during *shemita*, anything that grew until that point does not have the status of *shemita* produce, i.e. *kedushat shevi'it* and the prohibition of *sefichin*. Only what grew after the roof was removed would be considered produce of an outdoor plant, subject to *shemita* laws. This would certainly be true if the removal happened inadvertently. Similarly, he maintained that there

was no concern in removing the roof in the eighth year.

Rav Auerbach adds a very original insight. He suggests that if one were to remove the roof at night when there is no immediate effect from the sun, even though the sun will subsequently improve the plants, perhaps the removal would be permitted *lechatchila*. Rav Auerbach explains that considering the removal of the roof is not a primary form of *shemita* labor, and the effect of the action will only take place at a later point, one may plant with the intention of removing the roof as long as it is done at night.

Practical applications

If the owner of a garden with a roofed area wants to remove the covering, according to the *Chazon Ish* it is strictly prohibited. According to Rav Shlomo Zalman Auerbach, if the owner has no intention to benefit the plants, it is permitted.

If a structure blew down or was destroyed after potted plants grew under



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it, the *Chazon Ish* ruled that all produce of the plants would have *shemitah* status retroactively. Rav Auerbach considered all the produce that grew up until that point as having no *shemitah* restrictions.

According to Rav Auerbach, if one has a patio/balcony with a tarp, plastic or metal covering and wishes to remove it for a period of time throughout the year (for airflow or any other reason), it would be permitted to plant in potted plants **intentionally** as long as the tarp or roof would be removed at night. The *Chazon Ish* would most certainly disagree.

It should be noted that according to both opinions, if the roof of a closed structure is removed and then immediately returned, there is no halachic concern (see *Siach Emunah, Shemitah Veyovel* 1:248).

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- Planting under a temporary closed structure which will surely be removed (e.g. a camping tent) does not exempt potted plants under it from the laws of *shemitah*.

- There is a dispute between the *Chazon Ish* and Rav Shlomo Zalman Auerbach regarding the halachic status of potted plants in a closed structure after the roof has been removed. The *Chazon Ish* rules stringently.

- If the roof is removed without intention to improve the potted plants, any produce which already grew under them remains exempt from the laws of *shemitah*.

- According to Rav Auerbach, one may initially plant in sealed pots in a closed structure and then remove the cover if the roof will be removed at night.

- According to the *Chazon Ish*, if plants were planted in sealed pots during *shemitah*, the roof should not be removed even during the eighth year. Rav Auerbach is lenient.

- According to all opinions, if a roof is removed and returned immediately, there is no halachic concern. ■

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