

Parshas Devorim – 5781

Moshe recounts the wanderings in the desert. He says that in the wanderings the Israelites had to skirt around Seir because that is the land of their cousin, Esau. He makes it clear that HaShem did not want them to tread on that land. As HaShem told him:

Deuteronomy 2:5

אֲלֵתְתַגְּרוּ בָּם כִּי לֹא־אֶתַּן לָכֶם מֵאֲרָצָם עַד מְדִינַת כַּפְּרֵי־רָשָׁה
לְעֵשׂוֹ נָתַתִּי אֶת־הָר שֵׁעִיר:

“Do not provoke them (Esau) because I did not give to you their land. Not even a foot should tread in it because I have given as an inheritance the land to Esau, I have given to him Mount Seir.” We can make two points regarding this inheritance to Esau. First, it is a land that does not belong to Israel, unless given or sold. Second, Esau received his land well before Yaakov did.

The Gemara makes the point in Kedushin 18a: Rav Ḥiyya bar Avin says that Rabbi Yoḥanan says: By Torah law a gentile inherits from his father, as it is written: “Because I have given mount Seir to Esau as an inheritance” (Deuteronomy 2:5). The Gemara asks: But perhaps it is different with regard to an apostate Jew? In other words, it is possible that Esau was not considered a gentile but rather Jewish, like the Patriarchs. Consequently, he is categorized as an apostate Jew. Rather, the proof is from here: “Because I have given Ar to the children of Lot.” (Deuteronomy 2:9), and the descendants of Lot were certainly gentiles. The Gemara, thus, concludes that even idol worshipers and gentiles inherit, and their possessions belong to them.

The Gemara in Nazir says Rabbi Ḥiyya bar Avin say that Rabbi Yoḥanan said: A gentile inherits the estate of his father by Torah law, as it is stated: “Because I have given Mount Seir to Esau as an inheritance.” (Deuteronomy 2:5).

It may be obvious that gentiles can own land, but it is obviously important for the Gemara to make this point from our verse. We will see why shortly.

Further, the Gemara Yerushalmi Rosh Hashana says that there is a seeming contradiction in the years of King Dovid's rule. It says forty years (Kings I 2:11) and it also says it was forty years and six months (Shmuel II 5:5). Now, this can seemingly just be a rounding of the number in Kings. However, the Gemara explains that Yoav fought with Seir for six months (Kings I 11:17). Therefore, the count of the six months is removed during that time because our passuk (Deuteronomy 2:5) says that Israel is forbidden to fight with Seir.

Clearly, the Torah made it very important that Seir was properly inherited from Avraham to Esau, and that land shall not belong to Israel. Can it ever?

Mt. Seir and the land given to Esau is just south of the Dead Sea and it extends in a round shape to the east and west (part of common day Transjordan and common day Israel). Now, during King Shlomo's reign he had a port in Eilat. It says, "King Shlomo also built a fleet of ships at Ezion-geber, which is near Elat, on the shore of the Sea of Reeds in the land of Edom." (Kings I 9:26). Clearly, Esau had land to the south of Eretz Yisrael. Also, Shlomo took an egress through the land, or perhaps just around it, to his port in Eilat (on the edge of the Red Sea). Therefore, we can see that Eretz Yisrael extended all the way south to Eilat, or at least had an egress.

This is important because our verse says "not even a foot shall tread" in that land. We also just learned from King Dovid's battle with Esau that taking land by force is not sanctioned by the Torah. Certainly King Shlomo could not have an egress unless he obtained some sort of ownership of that land, from Edom/Seir.

We can see from this how important the inheritance is to Yaakov and to Esau. As we quote from Sefer Yehoshua every year in the Pesach Hagadda, “But I took your father Avraham from beyond the Euphrates and led him through the whole land of Canaan and multiplied his offspring. I gave him Yitzchok, and to Yitzchok I gave Yaakov and Esau. I gave Esau the hill country of Seir as his possession, while Yaakov and his children went down to Egypt.” (Joshua 24:2-3).

This appear so be unjust. To Esau HaShem gave land that Esau occupied immediately, being there already when Moshe led the Israelites toward Canaan. And to Yaakov / Israel, the inheritance was to go down to Egypt and be slaves in a foreign land. Regardless of the justice, Yehoshua was telling the people, and we remind ourselves yearly at the feast of the Exodus (the Seder) that Esau received land and that land belongs to Esau justly and legally.

Why is the inheritance that Israel received the slavery? Why did not Yehoshua tell the people “But I took your father Avraham from beyond the Euphrates and led him through the whole land of Canaan and multiplied his offspring. I gave him Yitzchok, and to Yitzchok I gave Yaakov and Esau. I gave Esau the hill country of Seir as his possession, while Yakov and his children I gave them Canaan.” We all know the history that follows in Sefer Yehoshua about the history of events: HaShem took the Israelites out of Egypt led by Moshe and Aharon, and they eventually came up to Canaan, conquered it, and took it as their own. However, there is an important contrast. Esau received the portion immediately while Yaakov had to suffer in Egypt first. From Yehoshua’s speech we see that these two events seem equal in the Torah’s point of view.

Rashi says that “do not tread with a foot” on the land means not even a step, without permission. Unlike other lands where Israel asked to pass on the way to Canaan, Esau’s inheritance was so complete that even a walk through was not permitted.

This is explained by the Gur Areyeh who says the word “עַד” is teaching us that even a footpath, an egress or right of way, a safe passage, should not be asked for by Israel. It may be given, but HaShem is stressing the land is Esau’s and we should not disturb that.

Rashbam points out that comparing this verse to Deuteronomy 2:9 when talking about Lot’s lands, that land was not a familial inheritance. Esau got land by means of inheritance law which can never be disturbed. Lot got land for his good deeds. If he is found unworthy then that gift can be removed. Esau’s inheritance rights are absolute. He says, “whereas Har Seir had been assigned as ancestral land to the descendants of Esau, the Ammonites and Moabites had been assigned their land as a courtesy to Avraham to whom they were related biologically. Moshe also wanted the people to understand that seeing that the Lord was so concerned with distant relatives of Avraham, how much more concerned would He be about the direct descendants of Avraham, Yitzchok and Yaakov, i.e. the Israelites! He would most certainly keep a promise made to these patriarchs in the form of an oath.”

Ohr Chaim posits that Israel cannot ask for the right to walk through. Esau can volunteer to allow Israel to pass. Thus, perhaps, is how King Shlomo obtained the egress to Eilat.

Now, “עַד” means such right is not absolute. Devarim Rabbah says that “this word עַד is used as a reference to a certain point in time. It links setting foot on Edom’s territory to Isaiah 63, a chapter in which the prophet deals with HaShem returning from making war against Edom.” How can Israel eventually make war against Edom if Israel cannot provide it or walk in its land, per our verse, Duteronomy 2:5? The answer, according to the Midrish, is that “until”

such time as ultimate war will be waged. Then Esau will battle with Yishmael, and Israel will inherit the results.

We can say, like the Rashbam, that HaShem kept his promise to Avraham, Yitzchok, and Yaakov, giving Israel the Land. HaShem kept his promise and gave Esau Seir. Esau received it right away, but will ultimately lose it. Why? Because while Esau sat safely in Seir, Israel went down to Egypt, were made slaves, but were taken out as HaShem's people. As Yehoshua ended off in his chizzuk to Israel, when he says, that after the Israelites were perused by Egypt, the Sea of Reeds split, the Israelites battled the Amolekites, were enticed by the Midianintes, and defeated the Amorites, Sichon, and Og, "I have given you a land for which you did not labor and towns which you did not build, and you have settled in them; you are enjoying vineyards and olive groves which you did not plant." (Joshua 24:13). He ends off and says, "Now, therefore, revere the Lord and serve Him with undivided loyalty; put away the gods that your forefathers served beyond the Euphrates and in Egypt, and serve the Lord." (Ibid 24:14).

The lesson can be this. The Torah warns us to follow HaShem and let HaShem give us our Land. When the time is right "HaShem will do battle for us." (Exodus 14:14). Just as Esau's land is, as of now, an absolute right, a legal right of inheritance, so too is Israel. We may have been exiled from that land 1,951 years ago. However, it still belongs to us and will be returned to us. From Lebonon to Eilat, from the Golan Heights (Tel Dan) to the south (the Negev). May HaShem grant us our inheritance back speedily in our days.