

Fruit Preserves
January 4, 2023

Q May I remove the cherry tree in my backyard?



A The Torah forbids the cutting down of fruit trees: “Do not destroy its trees” (Devarim 20:19). One may also not instruct a non-Jew or a child to do the job (Chut Shani, *Bal Tash’chis* 1:6). The Gemara (Bava Kama 91b) also cautions that transgressing this *issur* can cause early death *R”l*, and it is listed by the *poskim* among dangerous activities that must be avoided (Taz Y.D. 116:6).

If the tree no longer bears fruit, it may be cut down (Rambam Hilchos *Melachim* 6:9). Even if it yields some fruit, it may be cut down if the value of its wood exceeds that of its fruit. In calculating the value of the fruit, maintenance costs should be accounted for (Minchas Shlomo 100).

Some say one may move a fruit tree to another location if he removes and transplants it together with its root ball (She’eilas Ya’avetz 76 cited by Pis’chei Teshuvah Y.D. *ibid.*). Others are stringent (Chasam Sofer 2:102).

If the tree is dependent on supplemental water, you may deliberately withhold the water in order to cause it to die (Chazon Ish on Rambam *Melachim* 6:8). But an existing water source may not be diverted away from the tree (Rambam *ibid.*).

If you intend to build and the tree is in your way, it should preferably be transplanted (Minchas Shlomo *ibid.*), but you may cut it down (Rosh Bava Kama 8:15). It isn’t necessary to alter the construction plans, even minimally, to accommodate the tree (Chut Shani *ibid.* 3). But given the associated danger, some *poskim* advise to have a non-Jew perform the cutting (She’eilas Ya’avetz *ibid.*). Others contend that if halacha permits the action, there’s no reason to be wary of danger (Binyan Tzion 1:61). In practice, one should follow the first opinion, as hiring a non-Jew can be done easily.