

Shoel U'Mashiv

Building a Sukkah Under a Tree

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Q - It's inevitable—it comes up every place in every location. People want to know if can you build a *Sukkah* under a tree? And if you can, what are the parameters?

A - The *Shulchan Aruch O.C. 626:1* says not to make a *Sukkah* under a tree or under a house. Then he goes on to qualify the statement. First he quotes those that say if the tree creates more shade than it lets through sun, then the *Sukkah* is no good in all circumstances. But if the tree lets through more sun than it creates shade and the *Schach* of the *Sukkah* creates more shade than it lets through sun, then the *Sukkah* is fit for use. Then he quotes those that say that if there are branches of a tree over the *Schach* of the *Sukkah*, the *Sukkah* is unfit for use. The *Mishnah Berurah 11* says that we treat any *Schach* that has a tree branch over it like *Schach Passul*. Therefore, if the branch covers 4 *Tefachim* of *Schach* (about 12 ½ inches) then one should not sit or eat under it.

The *Biur Halacha* in *Yesh Omrim Affilu* says that the rule is when the *Shulchan Aruch* quotes 2 separate opinions as some say this and some say that, the *Halacha* follows the second opinion. In this case, the second opinion is not to build a *Sukkah* under a tree. But he says in a *Shas Hadchak*—a pressing circumstance—where a person has no alternative and they're not able to remove the tree, then they can rely on the first opinion.

Simply put, the answer is ideally no. But in a pressing circumstance, especially when that circumstance is someone else's *Sukkah* that you have no control over, then there are ways for a *Sukkah* to be built under a tree.