

23.3.8

31a (משנה ח') → 31b (סיום הפרק)

1. וְקָרְאוּ לוֹ זְקֵנֵי עִירוֹ וְדָבְרוּ אֵלָיו וְעָמַד וְאָמַר לֹא הִפְצֵיתִי לְקַחְתָּהּ: זְבָרִים כֹּה, ח
 2. עָשִׂיר בְּרָשִׁים יִמְשׁוּל וְעָבַד לְוָה לְאִישׁ מְלֹנָה: מִשְׁלֵי כֹב, ז

I 'ח: appealing a decision

- a *Without conditions*: he may bring proofs as long as he wants and nullify the decision
- i *But if*: they told him to bring any evidence he has within 30 days
- 1 *If*: he brought it within 30 days – nullifies; if not – ruling stands
 - 2 *Dissent (רשב"ג)*: he can bring them later as well
 - (a) אין הלכה כדברי חכמים even בידעבד רשב"ג follows הלכה דבה בר רב הונא
- ii *If*: they requested that he provide עדים or evidence and he said that he has none
- 1 *And then*: he found עדים or evidence - this is meaningless
 - 2 *Dissent (רשב"ג)*: he can bring עדים or ראיה later as well (he didn't know about them then)
 - (a) אין הלכה כדברי רשב"ג and בידעבד חכמים follows הלכה דבה בר רב הונא בשם ר' יוחנן
 - (i) *Purpose*: to counter ר"י's report of ר"י that הלכה כרשב"ג anywhere in the משנה except for ערב and צידן, ראיה אחרונה (our case) – קמ"ל that the only exception is ראיה אחרונה
 - (ii) *Story*: orphan was sued and when asked if he had any evidence, said "no" and was found liable
 1. *When*: others heard him crying, witnesses came forward
 2. *Ruling (ר"נ)*: here, we certainly accept "ראיה אחרונה", as he couldn't have known about them
- iii *If*: he saw that he was about to lose the case and said "פ' ופ' come and testify for me" or he pulled out evidence from his belt – this is meaningless (רשב"ג is silent here)
- b *Story*: woman was holding a שטר as a שלישי, she testified that it had been paid off
- i *Ruling (ר"נ)*: believe her
- 1 *Challenge/question (רבא)*: is this following רבי, who says במסירה נקנות
 - 2 *Response*: she is believed based on a מיגו – she could have burned the שטר
- ii *Alternate version of ruling*: ר"נ did not believe her
- 1 *Challenge (רבא)*: she could have burned it (believe her due to מיגו)
 - 2 *Response*: once the ב"ד has seen the שטר, this type of מיגו ceases to be usable
 - (a) *Challenge (רבא)*: a receipt that has עדים on it, requires השטר קיום;
 - (i) *But*: if it has no עדים but is held by a שלישי, the שלישי is believed - ר"נ (version #2) is refuted
- c *Analysis (ר' יוחנן)*
- i *ר' דימי*: he can keep arguing until he has no more arguments, and then summons witnesses
- 1 *Challenge*: this is contradictory, as first clause follows רבנן, last one – רשב"ג
 - (a) *Cannot say*: that the entire משנה is רשב"ג and his "voice" is explaining, as above (הלכה כחכמים)
- ii *ר' שמואל בר יהודה*: he can keep arguing until he has no more evidence; then ב"ד tells him to bring witnesses and he says he has none; to bring evidence and he says he has none
- 1 *But if*: עדים suddenly came from abroad or he discovered his father's satchel (with שטרות) he may use these

II Change of venue

- a *ר' יוחנן ר' דימי* ruled that either party can force the case to be heard in a district court
- i *Challenge (ר"א)*: if someone lent a מנה, shall he spend a מנה to collect (travel)?
- ii *Rather*: he can force the other to accept judgment in his town
- iii *Support*: ר' ספרא ruled that he can force judgment in his town, and if they needed information from the district court, they can send a letter; and if the losing side wants to know why the district court ruled against him, he may request a written explanation
- 1 *But*: the יבמה must follow the יבם to get חליצה in his city (as per v. 1)
 - 2 *Final ruling (אמימר)*: the party can be forced to go to the district court
 - (a) *Challenge (ר' אשי)*: ר"א's argument (above)
 - (b) *Answer*: that only applies to the לווה, but the מלווה can force the move as per v. 2
- iv *Story*: letter written to מר עוקבא, requesting that he judge there and if not send the בעל דין to טבריה
- 1 *Note*: this is a contradiction
 - 2 *Resolution*: if he won't accept your judgment, send him to טבריה
 - 3 *ר' אשי*: it was a case of דיני קנסות (cannot be adjudicated in בבלי); the opening line was written to honor מר עוקבא