

פרק שלישי – יש בערכין Introduction to

As we had in the previous chapter, this פרק begins with an observation about the nature of ערכין and presents a series of areas of הלכה which share this nature - to wit, when the תורה commands that a set amount be given as consequence of battery and the like, this can be more lenient than if the actual/virtual value of the person were to be paid (if the person is someone of great value); it can also be more severe, if that person were of lesser value.

32.3.1

13b (משנה א) → 14b (משנה ב)

Note: שדה מקנה invokes שדה אחוזה and שדה מקנה (see related verses below). שדה אחוזה is an ancestral field, belonging to the family as tribal land. If someone sells his שדה אחוזה, it becomes "שדה מקנה" until the יובל at which point it reverts to the original owner. If someone is מקדיש his own שדה אחוזה, he may redeem it at the rate of 50 שקל per בית כור – but this amount decreases by a ratio for each year closer to יובל, until 2 years before יובל, at which time it goes back to the standard 50 שקל per בית כור. Anyone else may redeem it and pay its value (+חומש). In any case, if the original owner doesn't redeem it by יובל, it goes to משמרת הכהנים of that time (יובל יורה"כ). If someone sells שדה מקנה (3rd owner); it automatically reverts to original owner at יובל. If the buyer is מקדיש his field, he – or anyone else – may redeem it at its value (no חומש).

ואם משדה אחוזתו יקדיש איש לה' והיה ערפו לפי זרעו זרע חמר שערים בחמשים שקל כסף. אם משנת היבל יקדיש שדהו כערפו יקום: ואם אחר היבל יקדיש שדהו וחשב לו הפתח את הקסף על פי השנים הנותרת עד שנת היבל ונגרע מערפו: ואם גאל יגאל את השדה המקדיש אתו ויסף חמשיית כסף ערפו עליו וקם לו: ואם לא יגאל את השדה ואם מכר את השדה לאיש אחר לא יגאל עוד: והיה השדה בצאתו ביבל קדש לה' כשדה התרם לפתח תהיה אחוזתו: ואם את שדה מקנתו לאש לא משדה אחוזתו יקדיש לה': וחשב לו הפתח את מכסת הערפו עד שנת היבל ונתן את הערפו ביום ההוא קדש לה': בשנת היובל ישוב השדה לאשר קנהו מאתו לאשר לו אחוזת הארץ: וכל ערפו יהיה בשקל הקדש עשרים גרה יהיה השקל: וקרא בו טו-כז

- I א משנה: list of set payments in the תורה which can prove to be a leniency or stringency
- a ערכין whether he commits to the ערך of the most beautiful or most disgusting ישראל – gives 50 שקל
- 1 Note: use of "ישראל" suggests that our משנה is *contra* ר"מ, who (משנה א:ב) allows for a גוי as "target" of ערכין
 - 2 Defense: even ר"מ could agree; use of ישראל as example teaches per רב: prohibited to say זה גוי נאה גוי זה נאה
 - (a) Challenge: if so, should have taught וכעור בגויים
 - (b) Answer1: wanted to keep entire משנה within one nation
 - (i) Challenge: ahead (ג:ד), contrast שבכונה וקטנה שבישראל
 - (ii) Answer: that's still one nation – מצוות כהנים simply have more
 - (c) Answer2: since the next ruling is re: שדה אחוזה, which only applies to ישראל – ישראל mentioned תנא
 - ii However: if he says "דמיו עלי" – he pays the subjective value
- b Other payments (detailed in next משניות): redemption of שדה אחוזה שור המועד; שדה אחוזה שם רע; אונס, מפתה ומוציא שם רע
- II ב משנה: explication of שדה אחוזה/חומרא of קולא/חומרא (see note)
- a Whether: he dedicates cheap, barely arable land or the finest orchard property, redeems @ 50 שקל per בית כור
- i But: in שדה מקנה (see note), he redeems it at its proper value, given the year within יובל
 - ii Dissent: ר' אליעזר – both שדה אחוזה and שדה מקנה are redeemed @ 50 שקל per בית כור
 - 1 Difference: שדה אחוזה has an extra חומש at redemption, unlike שדה מקנה
- III ג' הונא's ruling and the pursuant discussion:
- a ב"כ if someone is מקדיש a field filled with trees, he must redeem the trees @ value, then redeem field @ 50 שקל per בית כור
- i Implication: ר"ה maintains that people intend a generous dedication when they are מקדיש (→ trees included)
 - ii Challenge (ר"ג לר"ה): our משנה mentions fine orchards – at 50 שקל per בית כור
 - 1 Answer: the משנה is referring to lands that could raise orchards, but nothing is planted there yet
 - iii Challenge: ד:יא – only teaches that a grain field is included; vineyard, "woodyard" and orchard are included via "שדה" (i.e. even an orchard is redeemed @ 50 שקל per בית כור)
 - 1 Answer: means that the orchard, as land, is redeemed @ 50, then he redeems the trees @ value

- iv *Challenge*: תוספתא ב"ב ד:יב – if he had an orchard of 10 trees per בית סאה (the proper amount) and was 3 מקדיש of them, the land and (small) trees between them are considered הקדש
- 1 *Therefore*: when he redeems, he redeems @50 שקל per בית כור
 - 2 *However*: if more or fewer trees in that area (“abnormal” מטע) – neither land nor trees between them are considered הקדש
 - (a) *Furthermore*: if he was מקדיש the trees, then the land, redeems trees@value, then land@50 שקל per בית כור
 - (b) *Cannot*: explain the 1st case as redemption and then another (of trees), since סיפא explicates this
 - 3 *Defense*: this is authored by ר"ש, whose position is that one who is מקדיש does so in a “miserly” fashion
 - (a) *Proof*: ברייתא – if someone is מקדיש his field
 - (i) *חכמים*: entire field is הקדש (i.e. מקדיש בעין יפה)
 - (ii) *ר"ש*: only grafted carob and sycamore stump (which would now be nurturing from הקדש)
 - (b) *challenge*: can't be ר"ש; as he determines פדיון based on point of redemption, not “restore point” of הקדש
 - (i) *proof*: ברייתא – ר"ש (ור' יהודה) – if someone bought a field from his father and then was מקדיש, then his father died – it is still deemed to be שדה אחוזה (for purposes of פדיון) i.e. פדיון determined at that point
 1. *dissent*: ר"מ – only considered שדה אחוזה if he bought, then father died and only then he was מקדיש
 2. *proof*: שדה מקנתו אשר לא משדה אחוזתו
 - (ii) *therefore*: he should allow the trees to be redeemed with the land even if he was מקדיש trees first
 1. *assumption*: ר"מ has support of verse; ר"ש (ור"י) must have position of פדיון
 2. *block* (רנב"י): ר"ש ור"י also read same verse for their position: could have said שדה אחוזתו אשר לא אחוזתו
 - a. *however*: additional word שדה indicates that only a field that was never ראוי to be אחוזתו

IV פפא ר' ruling and the subsequent discussion

- a *if*: he was מקדיש unarable land (טרשין) – he redeems it at value (not “בית זרע”)
- i *if*: he didn't redeem them – they still go to יובל at כהנים (still “שדה”)
- b *if*: he sold טרשין, they may be redeemed immediately (no need to wait 2 years) (no “תבואות”)
- i *if*: he didn't buy them back – they revert to him at יובל (still “לאחוזתו”)
- c *if*: he was מקדיש trees – he redeems at value (not “בית זרע”)
- 1 *question*: why aren't they קדוש with the land (→redeem at 50 שקל per ב"כ)?
- 2 *proposal*: perhaps only the trees are קדוש, not the land
- 3 *however*: נהרדעי rule that if someone sells a tree, he owns land rights all the way down to bedrock
 - (a) *answer*: that ruling is only when the buyer makes such a claim; else, tree is independent of its land
- ii *if*: he didn't redeem them – they do *not* go to יובל at כהנים (not “שדה”)
- d *if*: he sold trees – he may not buy them back before 2 years have elapsed (still “שני תבואות”)
- i *if*: he didn't redeem them, they don't revert to יובל (to owners) (not “אחוזתו”)

V Analysis of dispute ר"א/חכמים about redemption of שדה מקנה

- a *במכסת*: ר' אליעזר vs. חכמים: תוספתא ערכין ב:ט:
 - i שדה מקנה (value – as opposed to fixed amount of 50 שקל per בית כור) is applied to שדה מקנה
 - ii ר"א reads וחשב: וחשב – both have set amount (50)
 - 1 *question*: do חכמים accept גז"ש and apply it to payment of חומש, or do they reject it outright?
 - 2 *ר"א*: stands to reason that they reject it –
 - (a) *reason*: תורה explicates חומש in case of שדה אחוזה and מקדיש ביתו → מלמדין אין מאחד אין מלמדין
 - (i) *and*: even ר' יהודה, who allows for שני כתובין to inform, agrees where there are many (חומש) – אין מלמדין
 - (b) *support for ר"א from ברייתא (w/alternate argument)*: “במכסת הערכין” – compares שדה מקנה to ערכין
 - (i) *just as*: there is no additional חומש in ערכין
 - (ii) *so too*: no additional חומש in redemption of שדה מקנה

VI משנה ג: explication of שור המועד of חומרש/קולא

- a *whether*: he called the finest of slaves or the grossest of slaves – pays 30 סלע
 - i *however*: if the ox killed a freeman – pays his “value”
 - ii *and*: if the ox damaged either slave or freeman – pays full damages
- b *observation*: only שור המועד mentioned –
 - i *inference*: our משנה stands *contra* to ר"ע, who rules that if a שור hurts a person, he pays נזק שלם (from what remains from the sale of the תם)
 - ii *rejection*: could follow ר"ע as well; שור תם would be included in our משנה
 - 1 *however*: since the סיפא (beginning of 2nd clause) mentions killing עבד or בן-חורין, which only applies to מועד...
 - (a) *background*: difference of 30 vs. value only applies to שור המועד
 - 2 *therefore*: the תנא used שור מועד תנא