13.5.4 52b (סיום הפרק) → 53b (סיום הפרק)

ז. לא יוּכַל בַּעָלָה הָרָאשׁוֹן **אֲשֶׁר שׁלְחָה** לָשוֹב לְקַחְתָּה לָהְיוֹת לו לְאשָׁה אַחֲבִי אֲשֶׁר הַטַּמָאָה כִּי תוֹעָבָה הוּא לְפְנֵי ה' וְלֹא תַחֲטִיא אֶת הָאָרֶץ אֲשֶׁר ה' אֱלֹהֶיף נֹתוָן לְּךְ נַחֲלָה: *דברים כד, ד*

- - a. Note: this is true whether with the same יבמה or with 1 יבמה and 2 יבמות and 2 יבמות
 - i. Observation: this is contra בן עזאי, who allows for מאמר אחר מאמר with 2 brothers and 1 יבמה; but not inverse
 - b. Note: משנה could have also said אביי ורבא) אין אחר ביאה כלום s version)
 - i. However: the תנא was more concerned with the release of the חליצה)
 - c. בה's observation (about חליצה ,חכמים 'n is not a closer אין קידושין תופסין בח"ל) בח"ל); but per חליצה חכמים
 - i. Challenge: משנה can't be per "ז; in earlier clause (of גע משנה מאמר + גע וחליצה requires מאמר הענה גע וחליצה
 - ii. But: if it were מאמר, גט should not be meaningful
 - 1. Per: his ruling that once he gives a גע to his יבמה, she is forever אסורה, per v. 1
 - 2. Answer (גט :(ד' אשי is דרבנן ז'ר"ע; דרבנן s use of the verse is an אסמכתא
 - 3. Suppot from רבי ברייתא is quoted as limiting our ruling to "ר, who equates ערוה::חלוצה
 - (a) But: חכמים maintain that actions after חליצה are meaningful
 - (b) מקדש (after חליצה) as a wife; but if he did it as יבמה יבמה (חליצה) as a wife; but if he did it as יבמה
 - 4. Parallel ברייתא: if he gave חליצה and then (מאמר)
 - (a) אישות if he gave it to her as אישות, requires a גע; if as יבבי no גע needed
 - (b) חכמים: in any case, requires a גט
 - 5. Anaylsis: of רבי's opinion and that of חכמים
 - (a) רבי דבי הפב sees it like a case of working on גר property (who died) without knowing
 - (i) Challenge (אביי): in that case, he didn't intend any קנין יבמין, unlike here (intended קנין יבמין)
 - (b) אביי case is where he said אביי.
 - (i) מאמר sees מאמר as "riding" on the זיקה is gone (via מאמר has no anchor
 - (ii) מאמר they are separate; had he given her מאמר beforehand, it would be valid same now
 - (c) אבא had he said "במאמר יבמין" all would agree that it is valid; here he said "התקדשי לי בזיקת יבמין" התקדשי לי
 - (i) חליצה, יש זיקה erased it
 - (ii) אין זיקה חכמים; had he made this statement beforehand, it would be valid same now
 - (d) אינצה the problem here is חליצה מסולה (had he done חליצה first, all agree מאמר is invalid)
 - (i) מאמר exempts all → מאמר can no longer be effective
 - (ii) חליצה פסולה doesn't exempt all \rightarrow still room for מאמר to be effective
 - (e) חליצה all agree that חליצה doesn't fully exempt; here dispute is if a תנאי is valid for חליצה is valid for חליצה
 - (i) תנאי חנאי is invalid; therefore, חליצה (done on condition which was unmet) still fully valid
 - (ii) תנאי חכמים may be employed in חליצה
 - (f) תנאי call agree that a תנאי is valid; they disagree if a תנאי כפול is required or not
- II. משנה ג examples of rules in משנה ג
 - a. If: he did יבמות to 2 יבמות, must give תליצה to bth and 1 חליצה
 - b. If: he gave מאמר to one and גט to another, the בעלת המאמר requires גט וחליצה
 - c. If: he gave מאמר to one and had ביאה with another, both need חליצה and one היצה
 - d. If: he gave מאמר to one and חליצה to another, the first one needs a גט
 - i. Note: this supports מיי יוסף) and refutes מיי ווסף) and refutes ("don't soil another's cistern...")
 - ii. Block: it doesn't state that he should give חליצה; rather, if he gave חליצה...
 - e. If: he gave גיטין to both, they both require חליצה
 - i. Observation: this seems to support הבר"ה, who says that חליצה פסולה must be done by all brothers
 - 1. Rejection: the plural "צריכות" here is generic, not specific
 - f. If: he gave a גט to one and had ביאה with another, she requires גט וחליצה
 - g. If: he gave a גט to one and מאמר to another, she requires a חליצה
 - h. If: he gave a גט to one and חליצה to another, nothing counts after חליצה
 - i. Observation: again, seems to support שמואל and refute רב יוסף (as above, (e)
 - ii. Rejection: as above חליצה here is not prescribed, rather it is described as having happened (בדיעבד)

- - a. Whether: it is 1 יבמה or 2 יבמים with 1 יבמה with 1 יבמה
 - i. Note: this works with ר' יוחנן, who regards entire "household" as "reduced" to חייבי לאוין
 - 1. Teaching: that אין קידושין תופסין בח"ל
 - 2. However: according to ה"ל (all are still חייבי כריתות, except חולץ and חלוצה themselves), should be obvious that חליצה no need to teach that nothing works after חליצה
 - 3. Defense: ר"ל could point out that there is no need for בעל ועשה מאמר (with 2 נבמים), since it is universally accepted that אין קידושין תופסין באשת איש, nonetheless, it taught it
 - (a) Rather: since it taught the release of 1 יבם and 1 יבמה, taught also 2 יבם from 1 יבם;
 - (i) Then: in parallel, taught also 1 יבמין from 2 יבמין
 - b. Note: משנה could have also said אביי ורבא) אין אחר ביאה כלום אין אחר ביאה (אביי ורבא's version)
 - i. However: the תנא was more concerned with the release of the חליצה)
- IV. חליצה ליצה ליצה ליצה ליצה היאמר מאמר משמר הוא ocunts, at beginning, middle or end
 - a. However: ביאם is a "closer" if at beginning (first); if in the middle or at end, later actions count
 - i. Understood: why we need to mention חליצה followed by מאמר
 - 1. Teaching: that we aren't מאמר a case of חליצה after חליצה against חליצה before חליצה
 - ii. However: why the need to teach חליצה followed by גט?
 - iii. Counter: why is there a need to teach בעל followed by מאמר
 - 1. We understand: why ביאה is needed, א מד"ע we are גוזר a case of גו after ביאה against ביאה against ביאה
 - (a) Rather: since we taught חליץ ועשה מאמר, we also taught בעל ועשה מאמר
 - (b) Similarly: since we taught בעל ונתן גט, he also taught חלץ ונתן גט
 - b. Dissent: ר' נחמיה both אליצה and חליצה, at any point in sequence, are closers
 - c. ברייתא: 3 opinions
 - i. חליצה only מ"closer" at beginning ביאה is always a "closer" at beginning
 - 1. Reason: there is no reason to enact a חליצה מאמר before מאמר as a precaution against חליצה לאחר מאמר
 - (a) But: there is reason to make such a גזירה in the case of ביאה
 - ii. "7" both are always closers
 - 1. Reason: since מה"ת is חליצה, all know;
 - (a) And: since מה"ת is מה"ת, no reason to be ביאה אחר מאמר against ביאה אחר ביאה
 - iii. אבא יוסי בן יוחנן איש ירושלים. neither is a "closer" unless it is done first
 - 1. Reason: he agrees with רבנן, and extends חליצה as a precaution against ביאה