

14.4.3

43b (משנה ב') → 44a (מן הנישואין)

- I **משנה ב'**: extension of rights of father after betrothal (while daughter is still before onset of בגרות)
- a if he betrothes her and she is divorced; betrothes and is widowed - the כתובה goes to him
- i *incidental information*: if she is widowed twice, may no longer marry (supports רבי's position in re קטלנית)
- b if he marries her off and she is divorced or widowed – כתובה belongs to her
- i *dissent*: יהודה ר' maintains the first כתובה belongs to him
- ii *Counter*: חכמים – once she is married, he never again has those rights
- iii *Analysis of יהודה ר's opinion*:
- 1 *1st suggestion*: (רבה ור' יוסף) - since the father's claim dates back to אירוסין
 - (a) *challenge*: יהודה ר' agrees that if she becomes a בוגרת and then divorces, father has no rights
 - (i) *explication*: according to 1st suggestion, should belong to father (אירוסין was as a קטנה)
 - 2 *2nd suggestion*: (רבה ור' יוסף) – since the כתובה is written while she is under his domain
 - 3 *associated question*: date of collection of כתובה
 - (a) *clarification*: the date when the debt comes due defines the priority level of the liens on the debt
 - (b) *הונא ד' 100/200* from moment of אירוסין, all תוספת from moment of נישואין
 - (i) *contradiction*: הונא ר' stated that in the case where a woman brings 2 כתובות, the earlier one for 200 and the one dated later for 300, she can collect either but be bound to that date
 1. *explication*: following his statement above, she should collect 200 from the earlier date and **add** 100 from the later date
 - (ii) *answer*: just as she doesn't collect 500, since the 2nd כתובה was meant to replace the 1st, similarly, since he didn't write in the 2nd "and I am adding another 100..." (as we write in our כתובות after the 100/200 is written), he gave her a choice of 200/earlier or 300/later
 - (c) *נישואין ד' אסי*: all from moment of נישואין
- iv *tangential discussion*: above, we mentioned הונא ר's opinion that she can select which כתובה to use;
- 1 *possible dissent*: נחמן ר' ruled that if there are 2 שטרות on the same sale/gift, the 2nd one replaces the 1st and only the 2nd may be used
 - 2 *rejection*: since פפא ר' noted that נחמן ר' agrees that if the 2nd שטר in any way adds to the 1st (e.g. an extra tree), it is intended as a תוספת, not a pure replacement
 - (a) *application*: in הונא ר's ruling, the 2nd כתובה was 300 – 100 more than the 1st (à la פפא ר's exception)
- v *revisiting נחמן ר's ruling*: 2nd שטר replaces 1st
- 1 *exception*: if the 1st was a sale and the 2nd a gift, doesn't replace it
 - (a) *reason*: he wrote the 2nd to avoid the problem of ³דינא דבר מצרא
 - 2 *exception*: if the 1st was a gift and the 2nd a sale, doesn't replace it
 - (a) *reason*: he wrote the 2nd to assist the buyer in case a creditor comes to collect (אחריות)
 - 3 *however*: if both are sale or gift, the 2nd replaces (and invalidates) the 1st
 - (a) *reason*:
 - (i) 1: the buyer agreed that the first שטר was forged and accepted a later one
 - (ii) 2: the buyer forgave the earlier claim and accepted a later one
 - (iii) *split the difference*: invalidating witnesses on 1st שטר (#1 only); forcing buyer to pay back פירות from earlier time (#1 only) and responsibility for property tax from earlier time (#1-seller)
- vi *ruling re: כתובה*:
- 1 נישואין 100/200 from אירוסין – ראב"ש
 - 2 **חכמים** – all from נישואין

³ when selling property, right of first refusal goes to owners of neighboring properties; this doesn't apply to a מתנה