

14.10.1; 90a (משנה א') → 91a (קמ"ל)

Note: as we saw in the 4th chapter, the ordinance of *כתובת בנין דכרין* only applies if distributing it will not interfere with *ירושה דאורייתא* – so there must be a surplus *דינר*, at least, with which to fulfill *ירושה*. Our *סוגיא* discusses whether the *כתובה* itself can be considered *מותר דינר*

I *משנה א'*: payment to multiple wives/heirs

a If he was married to 2 women and died, 1st wife (and her heirs) has 1st claim on assets for *כתובה*

i Question: if 2nd wife is *תופס*, does she keep it?

1 Answer1: *תפיסה* is valid, since the *משנה* uses the phrase *קודמת*

(a) Implication: if a later *בע"ח* grabs assets, the earlier *בע"ח* cannot confiscate them for himself

(b) Block: *קודמת* may have sense of ultimate, not relative, precedence (as per law of *ירושה לבת*: *בן קודם לבת*)

2 Answer2: *תפיסה* is invalid, since the *משנה* didn't allow for it (*argument e silentio*)

(a) Implication: if a later *בע"ח* grabs assets, the earlier *בע"ח* may confiscate them for himself

(b) Block: perhaps the language is simply parallel construction

b If he was married to 2 women; wife A died and then he died, heirs of 2nd wife have prior claim

i Implications:

1 *כתובת בנין דכרין* applies with 2 wives even if only one wife predeceased the husband

(a) Consideration: we're not concerned about squabbling, since 1 set of heirs are coming to collect their portion of the *כתובה* and the other is collecting the surplus part

(b) Source: since the ruling is priority (*קודמין*) → if there's enough for both, they all receive

(c) Challenge (*רב אשי*): perhaps *כתובת ב"ד* doesn't apply in such a case, and *קודמין* refers to the essential inheritance, not *אמן* *כתובה*

2 *כתובה* itself can be considered the *מותר דינר* to allow collection of *כתובת בנין דכרין* (see note)

(a) source: omission of condition that there be a surplus *דינר* besides the *כתובה*

(b) Challenge (*רב אשי*): perhaps *כתובה* cannot be considered *מותר דינר* – but in this case, there was a *מותר דינר*

3 *כתובת ב"ד* is not collected from seized properties (*משועבד*)

(a) source: else, the heirs of the 1st wife could collect *כתובת ב"ד* from the heirs of the 2nd (*משועבד*)

ii reconsideration: *ברייתא* regarding *אחת במותו ואחת בחייו* (as per our *סיפא*) is a *מחלוקת תנאים*:

1 if wife A dies, then husband dies:

(a) *בן ננס*: heirs of wife A can tell heirs of wife B – you are *חוב*, collect the *כתובה* and leave

(b) *ר"ע*: *כתובת ב"ד* has already left the domain of wife A and they have no more claim

(c) Assumption: dispute is as to whether *כתובת ב"ד* applies to *אחת בחייו וא' במותו*

(d) Redirection: *רבה* reported that the students held:

(i) – all agree that *כתובת ב"ד* exists in such a case

(ii) Rather: dispute is as to whether *כתובה נעשית מותר דינר* (and same applies to a *בע"ח* – meaning, if there is a debt out on the estate, that money counts towards *דינר*)

(iii) *רבה* himself – all agree that *בע"ח* counts (since they're all equally indebted) – dispute only about *כתובה*

(e) challenge (*רב יוסף*): if so, *ר"ע* should stipulate that if there's a *מותר דינר*, they both collect

(f) rather: dispute is about *אחת בחייו וא' במותו* – paralleling dispute between *ר"ש/חכמים*:

(i) *א' בחייו וא' במותו*:

1. *חכמים*: the sons of the 2nd wife collect *אמן* *כתובה*

2. *ר"ש*: if there's *מותר דינר*, both groups collect *ב"ד* and divide the rest

3. assumption: their dispute is about *א' בחייו וא' במותו*

4. rejection: all agree that *כתובת ב"ד* exists in such a case

5. rather: dispute as to whether *מטלטלין* may serve as *מותר דינר*

6. rejection: *ר"ש* explicitly requires *קרקע* for *מותר דינר*

7. rather: dispute as to whether *נכסים משועבדים* are reckoned towards *דינר*

8. rejection: language should read "since there's *מותר דינר*", not "if there's *מותר דינר*"

9. rather: dispute as to whether less than a *דינר* is sufficient

10. rejection: *ר"ש* explicitly stated *דינר*

11. rather: choice #7 or #5 – and flip original *ברייתא* – *ר"ש* requires *בני חורין*

iii ruling *אחת בחייו וא' במותו* exists and *כתובה* is considered *מותר דינר*

1 Question: why state both; once we've ruled that *כתובה* is considered *מותר*, clearly *כתובת ב"ד* exists in case of *א' בחייו וא' במותו*

2 Answer: if we only stated *מותר נעשית מותר סד"א* that refers to a case where there are 3 wives, and the last one has a girl (not *ירושה*); but when they all inherit, we are concerned about *אינצוי* *קמ"ל* – *בת ירושה*)