

14.10.4; 93b (משנה ה') → 95a (להדדי)

Note: in *מס' גיטין*, there is an ongoing dispute regarding the stage which effectuates the *גט*. *ר"מ* maintains that *עדי חתימה כרתו* – i.e. the witnesses who sign it effectuate it. *ר"א* believes that *עדי מסירה כרתו* – the witnesses of handing it over make it effective. This dispute is possibly the basis for *רב/שמואל* reading two writs with the same date on the same property – if we accept *ר"מ*, the witnesses signed on documents that conflict, ergo the intent seemed to be to create a 50/50 split. *ר"א*, on the other hand, would maintain that having both signed with same date proves nothing about the seller's intent and we can recognize one buyer.

I משנה ה': sequential collections

- a if a man is married to 4 wives, married in sequence (i.e. כתובות from different times)
 - i A collects first – and takes an oath to the B (that she collected no more than her due)
 - ii B collects next – and takes an oath to C
 - iii C collects next – and takes an oath to D
 - iv D collects:
 - 1 חכמים: no oath
 - 2 בן ננס: oath (to whom?)
 - 3 explanations for dispute:
 - (a) שמואל: if a later בע"ח collects, even though an earlier בע"ח loses his lien property:
 - (i) ת"ק: the later בע"ח (::wife D) doesn't keep it (→no need for שבועה)
 - (ii) בן ננס: the later בע"ח keeps it (→שבועה)
 - (b) נחמן: (all agree that בע"ח מאוחר שגבה מה שגבה לא גבה ד' נחמן) concern for neglect (of property, thinking she may lose it if another of the claimed properties gets seized)
 - (i) ת"ק: no concern
 - (ii) בן ננס: concern
 - (c) אבוי: whether claiming from adult heirs also requires שבועה (oath – to heirs, not to other wife)
 - (i) ת"ק: no requirement (only if they are minors)
 - (ii) בן ננס: requirement (even if adults)
- v הונא's observation (from the fact that A only takes an oath to B and not to C,D):
 - 1 case: if F&G (partners or brothers) are in litigation against X and F goes to court with him and loses
 - 2 ruling: G cannot request a new trial for his half of the interest – F acted on his behalf
 - 3 support: (ר"י) from our משנה (A doesn't take an oath to C, since B acted on behalf of C and D)
 - 4 rejection: dissimilar – in the משנה, the oath of A is the same if given to B, or B & C etc.; in this case, G can claim that if he were there, he would have argued differently
 - (a) caveat: this argument only works if G was out of town at the time; if he was in town, he should have come to ב"ד
- b if the שטרות are dated on the same day, but hours are specified (as per מנהג ירושלים) – precedence holds
- c If there is no obvious precedence, divide equally (as per משנה ד')
 - i Related dispute (רב/שמואל) regarding 2 שטרות for same property and same day:
 - 1 רב: split
 - 2 שמואל: judges' assessment (שודא דדייני) – attempt to discern intent of seller
 - 3 suggestion: ר"א accepts שמואל and ר"מ accepts רב (see note)
 - 4 rejection: all hold like ר"א; רב maintains that division is fairer, שמואל prefers דייני שודא
 - (a) additional rejection: רב clearly accepts ר"מ in all non-גט cases
 - 5 challenge: if 2 שטרות are written for same date – split (like רב) –
 - 6 defense (שמואל): follows ר"מ
 - (a) Block: ר"מ cannot be author, since סיפא rules that if he wrote to one and gave to another – goes to party who received it (מסירה)
 - 7 Answer: שודא vs. division is a מחלוקת תנאים
 - ii Stories:
 - 1 רמי's wife wrote her estate to רמי in the morning and to עוקבא at night
 - (a) ר"ש gave it to רמי due to precedence
 - (b) ר"י challenged – since they don't write hours, all day is same time – שודא
 - 2 ר' יוסף had 2 שטרות come before him – 1 said בניסן ה', the other said ניסן (no date)
 - (a) ruling: he gave property to בניסן ה'-holder
 - (b) defense: "ניסן" may have meant end of month
 - (c) However: cannot write a טירפא from end of month – he may be the prior claimant (1-4 ניסן)
 - (d) Solution: get the בניסן ה'-holder to write him a הרשאה to collect on his behalf