

14.11.3

98a (משנה ד') → 99b (בקטיני)

- I משנה ד' a widow who over- or under-sells property for the כתובה
- a if she has a כתובה of 200 and sells land worth 200 for 100 – her כתובה is settled (she sold poorly)
 - b if she has a כתובה of 200 and sells land worth 100 for 200 – her כתובה is settled
 - i reason: all gains go to the holder of the money (not the agent) as per ר' יוסי
 - 1 challenge: ר' יוסי rules (in דמאי) that all goes to the שליח
 - 2 answer: if it is something with a set price – שליח gains; if no set price (e.g. land) – to בעל המעות
 - 3 final ruling: if it has a set price – they divide (ר' יהודה); if not, all goes to בעל המעות (ר' יוסי)
 - c if she sold land worth 101 for 100 – sale is invalid – even if she promises to repay the דינר to the heir
 - i רשב"ג: sale is valid unless she undersold by a significant field-size:
 - 1 field – 9 קבין worth of production
 - 2 vegetable garden – 1/2 קב
 - (a) קב ר"ע – 1/4 קב
 - d if she had a כתובה of 400 and sold 3@100 and then land worth 101 for 100 – all sales are valid but the last
- II Analysis of over- and under-selling
- a (version 1) If a man sends his agent to sell a לתך (1/2 כור) of land and he sells a כור
 - i Lemma1: the agent has added to his words and the לתך is valid (owner can't renege) OR
 - ii Lemma2: the agent has changed his words and the entire sale is invalid
 - iii Suggested proof: from law of מעילה:
 - 1 If host tells agent to give guests 1 portion, he gives them 2 and they take 3 (all of קדשים) – their all guilty of מעילה
 - (a) Proof: since the agent must follow his agency for the host to be considered a מועל, we must consider the 2 pieces to be an addition to the 1 for which he was sent (→lemma1 above)
 - (i) Rejection: perhaps agent told them to take 1 from the host; he was offering them a 2nd
 - (b) Proof: our משנה – if she sold 101 for 100, sale invalid
 - (i) Circumstance: we assume it to be 101 for 101 and the 100 referred to her stake
 - (ii) Rejection: she really undersold – land was worth 101 and she sold for 100
 - (iii) Challenge: last case in משנה (400) is underselling, this cannot be underselling
 - (iv) Block: both are cases of underselling, last case teaches that it is invalid only because she was underselling the heirs' property (→if she undersold hers, it would be valid)
 - (v) Challenge: that was also learned from 1st case, which was their property
 - (vi) Answer: 2nd case teaches that we don't invalidate first sales (where she is still a claimant) as a precaution against last sale (where she has finished her settlement)
 - b (version 2) If a man sends his agent to sell a כור of land and he sells a לתך
 - i (version 1 above is certainly "adding" and the lesser amount is a valid sale)
 - ii Lemma1: the agent can claim that he did his dispatcher a favor, keeping him liquid OR
 - iii Lemma2: the dispatcher can maintain that he doesn't want more שטרות to keep (for more sales)
 - iv Suggested proof: from another ruling about מעילה:
 - 1 ת"ק: if the dispatcher tells the agent to buy a shirt with 1 coin and he buys a shirt at 1/2 price and a cloak with the other 1/2, they are both guilty (→"adding" not "violating" agency)
 - 2 ג' יהודה: in this case, dispatcher didn't violate – he could argue that a shirt for 1 coin would be worth 2
 - (a) proof: ר' יהודה agrees that if it was an item sold at a standard price, both violated (→"adding")
 - v Suggested proof: from our משנה (ruling about 400 sold by parcels of 100 – the 1st 3 sales are valid)
 - 1 Rejection: case where fields aren't contiguous and she must sell them separately
 - vi Question posed: if a dispatcher tells his agent to sell to 1 and he sells to 2 people
 - 1 ג' הונא: understand his instructions as "one only" and not to 2
 - 2 ג' חסדא ורבה בר רב הונא: 1 – and even 2, even 100
 - (a) ג' נחמן: confirms their ruling, but only if agent didn't err
 - (i) although: there is no אונאה לקרקעות – if the שליח erred there is
 1. proof: of distinction between dispatcher and agent from laws of הפרשת תרומה