

18.01.10; 14a (א"ל רב לרב אחא ברדלא) → 15a (סיום הפרק)

1. עשיר בְּרָשִׁים יְמָשׁוּל וְעָבַד לְוָה לְאִישׁ מִלְּוָה: מְשָׁלִי כַב, ז

- I Continued analysis of rule of מעמד שלשתם
- a Story: רב added "I promise not to go back on my word" in a מעמד שלשתם case with some saffron
 - i inference: he could have gone back on his word if he chose to do so → challenges efficacy of מעמד שלשתם
 - ii answer: what he meant was "I won't be able to go back on my word" - due to it being במעמד שלשתם
 - 1 challenge: רב already stated the rule of מעמד שלשתם – what is he adding here?
 - 2 Answer: סד"א only applies to a large gift; a small gift doesn't require the recipient to be present קמ"ל
 - b Story: 5 gardeners who sell their produce divided up their profits and one apparently had 5 coins more than the rest; they owed a land tax to the owner of the field so they made a קנין במעמד שלשתם with the owner of the field for the 5 coins; he later realized that their accounting was in error and he had had no more than the others
 - i נחמן thought that he couldn't help him, due to קנין במ"ש as well as the קנין that the others made from him
 - ii דבא: the entire קנין was in error due to bad accounting and should be reverted (accepted)
- II dispute between רב/שמואל re: ability of payer to retract agency when he has sent the payment with הולך
- a רב: still responsible, but he cannot retract the agency
 - b שמואל: since he's still responsible, he may retract the agency
 - i suggestion: they disagree about הולך = זכי (רב – זכי)
 - 1 rejection: all hold that הולך זוכי; dispute is whether we apply מינו reasoning as per שמואל
 - 2 support for רב: בריתא explicitly rules that in case of paying back loan or returning פקדון, the payer maintains responsibility but he may not retract שליחות
 - (a) challenge: in case of פקדון, let him say that the owner doesn't want his פקדון in another's (the שליח's) hands, in which case the שומר's handing it over cannot be classified as זכי
 - (b) answer: this only applies when the שומר has a reputation as a כפרן (someone who denies his debts)
 - ii story: ר' ששת asked ר' חמא בר יוסף to pick up moneys owed him in מחוזה; he refused to make a קנין from the holders of the money; when he returned, ר' ששת praised him as he avoided the responsibility (as per v.1)
 - iii Story: ר' יוסי בר כיפר and ר' דוסתאי asked ר' אחא נהרדעא to collect a silver cup of his from בבל (from א"י) when they took it, the holders demanded that they accept responsibility; ר' דוסתאי alone agreed
 - 1 Then: they harassed ר' יוסי, at which point ר' דוסתאי egged them on and they hit him
 - 2 Whereupon: on their return, ר' דוסתאי explained his actions, due to the fact that these fellows were strong-armed men, who could order someone be arrested or flogged and they were close to the court
- III Further on הולך זוכי
- a Case: if A gives B money with "הולך לC" – and C is no longer alive
 - i Opinion A: money returns to A
 - ii Opinion B: money goes to heirs of C
 - 1 Suggestion: their dispute is whether or not הולך=זכי
 - 2 Rejection: all agree that זכי=הולך~
 - (a) Answer1 (ר' אבא בר ממל): if A is בריא, it returns to him; if שכ"מ, goes to heirs of C
 - (b) Answer2 (רב זבד): שכ"מ - if C is alive at time of giving money, goes to his heirs; otherwise, back to A
 - (c) Answer3 (ר' פפא): בריא; if C predeceases A, it goes back to A; otherwise, it goes to C's heirs
 - b Suggestion: perhaps הולך זוכי is a מחלוקת תנאים:
 - i ברייתא: A directs money to C, the agent finds C dead, returns to A; if A is dead:

	opinion	if בריא	no, rather the case is שכ"מ
1	ר' נתן ור' יעקב – to A's heirs	~הולך זוכי	Follows ר"א (see below)
2	יש אומרים – to C's heirs	הולך זוכי	Follows רבנן (see below)
3	–fulfill מ'ת's wishes בשם ר"מ	~הולך זוכי, but מצוה לקיים דברי המת	Follows ר"א, but מצוה לקיים...
4	– split חכמים	הולך זוכי Unsure	Unsure if הלכה כר"א or כרבנן
5	– judgment of שליח "Here"	Unsure – prefer to use שודא	Unsure – prefer to use שודא
6	– case: to A's heirs* ר"ש הנשיא (?)	ר' נתן ור"י Supports ruling of	ר' נתן ור"י Supports ruling of

Note: ר"א and רבנן disagree about מתנת שכ"מ – according to ר"א, שכ"מ has no extended privileges and any gifting must be completed with a proper קנין חכמים say that any type of property may be distributed by a שכ"מ by force of his words alone
 * ר' יוסף ruled in accordance with ד"ש, but we hold that שכ"מ has extended power of words; answer: he reads "to A", not "A's heirs" and understands the case to be about a בריא