

18.02.08

22b (משנה ה') → 23b (ונועשה כמי שהקנה לה אחד מאבריה)

1. כי יקח איש אשה ובעלה והיא אם לא תמצא חן בעיניו כי מצא בה ערות דבר וכתב לה ספר כריתת ונתן בגדה ושלחה מביתו: דברים כד, א
 2. כן תרימו גם אתם תרומת ה' מכל מעשרתיכם אשר תקחו מאת בני ישראל ונתתם ממנו את תרומת יקוק לאהרן הכהן: במדבר יח, כח

I Who may write גיטין

- a A deaf mute (חרש), imbecile (שוטה) or a minor (קטן) may write a גט
- i Challenge: they have no דעת
 - ii Answer: if a competent adult is supervising them (גדול עומד על גביו)
 - iii Challenge (ר' נחמן): if so, a non-Jew should be able to write a גט with a ישראל supervising him
 - 1 Note: we have an explicit ruling that if a non-Jew writes a גט it is פסול
 - 2 Answer (ר' נחמן): he acts of his own accord, not according to the supervisor
 - iv Self-correction: since a non-Jew is invalidated as an agent (see below), his writing must be valid
 - 1 Note: the ruling that his writing a גט renders it פסול – follows ר"א (עדי מסירה כרתי); our משנה is מ"מ
 - 2 Tangent – ר"מ: ר"מ permitted using a גט found in the trash, as long as it was subsequently signed properly
 - (a) Challenge (ר'בא): v. 1 וכתב לה → לשמה;
 - (i) Defense: refers to לשמה חתימה
 - (b) Challenge (ר'בא): "any גט written not for a particular woman is invalid" (משנה ג:א)
 - (i) Answer: refers to חתימה
 - (c) Challenge: "when he writes it, it is as if he wrote it לשמה"
 - (i) Supposed meaning: when he writes the תורף, it is as if he wrote the טופס for her
 - (ii) Defense: rather, it means "when he has it signed לשמה, it is as if he wrote it לשמה"
 - (iii) Alternate response to all the challenges: these rulings reflect ר"א and our משנה is מ"מ
 1. support: ר'בא taught that in our משנה, the חש"ו are valid if they leave the תורף (filled in by גדול)
 2. note: dispute as to how ר' יוחנן read our משנה – following ר"א or ר"מ

b A woman may write her own גט and a man may write his own receipt for the כתובה

i Reason: the גט only becomes effected by its signatories

II משנה 2ה: everyone may be an agent to bring a גט, except חש"ו, a blind man and a non-Jew

III משנה 1ו: any of these who received the גט in that state and then overcame it (e.g. conversion) – invalid

a however: if they started out acceptable, became temporarily invalid and then restored – valid

i note: impossible in case of עובר כוכבים

ii rule: if the beginning (when they receive the גט) and end (when they hand it over) are בפקחות – valid

b reason for exclusion of the blind:

i not: because he can't see who gave it to him; else, how can he be married (rather, he recognizes his wife by voice)

ii rather: he can't bring a גט from חר"ל because he can't say בפ"נ ובפ"נ

1 challenge (אב"י): if so, if he saw and then became blind – should be able to bring (but see [a] above – invalid)

2 block: that ruling (about the end-point being בכשרות) only applies to שוטה –

(a) proof: it uses the phrase כשרות – not פקחות

IV Question asked of ר' אמי; is an עבד a valid הגט שליח?

a Answer: since the משנה invalidates a non-Jew → עבד must be valid

b Dissent: ר' יוחנן regards an עבד as invalid, since he isn't within the personal framework of גיטין וקידושין

i Challenge (ר' אלעזר): an עבד should be invalid as a שליח of any sort, following the דרשה of אתם – אתם (v.2)

ii Defense: that only invalidates non-בריית-בני (i.e. עכו"ם), not slaves (who are בריית-בני)

iii Contradiction: ר' יוחנן admitted that, nonetheless, if a master tells his שפחה that she is still enslaved but her embryo is free – it is valid

1 Explanation: even though an עבד cannot be a שליח for גיטין וקידושין (because "אינו בתורת"), she can be a vehicle for freeing the embryo, based on two principles:

(a) דב"י: freeing half a slave is a valid act and he is half free

(b) his reason: the embryo is a part of the mother (עובר ירך אמו) and it is as if he freed part of her