

18.03.03

27a (משנה ג) → 28a (טליקא דסבי)

- I גט משנה ג:
- a if an agent loses a גט and recovers it immediately – he may still give it; otherwise, he may not
- i definition of "immediately" – disputed (6 opinions – having to do with amount of time for people to come by or amount of time to write/read or both the גט)
- 1 *final ruling* – either "enough time for someone to pass there" or "for someone to settle in there"
 - 2 *in any case*, if it has a סימן – like a hole next to a particular letter, he may give it –
 - (a) *however*: not a סימן about the size etc. of the document
 - 3 *additional*: if it is found among his bags, or tied to his ring or pouch, that is ample proof even after a long time
- b if he finds it in a חפיסה (satchel) or דלוסקמא (bag used by old men) with identifying features – he may still give it
- c in any case, if he recognizes the גט, he may still give it (even after a lapse)
- d *challenge*: משנה (ב"מ א:ז) – found documents (e.g. gift-writs, deeds of emancipation etc.) aren't returned to either party,
- i *reason*: writer may have changed his mind and decided not to give it
 - ii *implication*: it is only on account of the concern that he changed his mind that we don't utilize the שטר
 - iii *however*: in our case, the husband directed the agent to give the גט
 - iv *answer* (רבה): that משנה refers to a locale where there isn't much travel (→ no reason to think the document came from another); our משנה is dealing with a locale frequented by caravans (→ document may be another's גט)
 - 1 *Limitation*: even in a place frequented by caravans, we return it unless we know of 2 men with the same name in town
 - (a) *Proof*: else, רבה is inconsistent:
 - (i) *Case*: in the court of הונא, ר' הונא found a document that identified a town named שוירי and הונא (a well-visited court) requested an investigation as to whether there are two towns of that name
 - (ii) *Conclusion*: רבה found a (ב"מ א:ח) משנה that states "all מעשה ב"ד are returned"
 - (iii) *Implication*: even in a place frequented by travelers, we only hold the document if we know of 2 men with same name in town
 1. *Reason*: we aren't concerned that this document belongs to another person
 - (b) *Support*: רבה ruled this way in practice, in a case where either:
 - (i) *The location*: wasn't well-traveled, even though there were 2 men of the same name OR
 - (ii) *The location*: was well-traveled, but there weren't 2 men of the same name
- e *Alternate challenge* (ר' זירא): our משנה *contra* ברייתא:
- i *If*: a גט אשה is found, if the husband admits to having given it, it is give to the woman – even after a lapse
 - 1 *Answer*: משנה is in frequently travelled location, ברייתא is in non-traversed place
 - (a) *Version 1*: even if we know of two men with same name in town (agrees with רבה)
 - (b) *Version 2*: only if we don't know of anyone else with that name (disagrees with רבה)
- f *Analysis of זירא סרבה*:
- i *דבה*: preferred to challenge using a משנה rather than a ברייתא
 - ii *זירא*: doesn't accept the inference from ב"מ א:ז that if the dispatcher said תנו, we give it even after a long time –
 - 1 *perhaps*: we only give it, as per our משנה, immediately
- g *alternate answers to challenges*:
- i *ד' ירמיה* in "out" cases (where we return it) – עדים aver that they've never signed another שטר for that name
 - ii *ד' אשי* in "out" cases, there is a סימן מובהק (like a hole next to a particular letter) on the שטר
 - 1 *note*: it must be a clear סימן, not just a hole anywhere
 - (a) *reason*: ר' אשי is unsure if סימנין דאורייתא or דרבנן and isn't willing to permit איש אשת without סימן מובהק
 - iii *Story*: רב"ח (agent) lost a שטר in the בימ"ד; he had סימנין עין and טביעות עין (since he is a צורבא דרבנן)
 - 1 *Result*: it was returned, but he didn't know if they felt סימנין דאו' (→ applies to all)
 - (a) *Or*: on account of his טביעות עין, in which case it would only apply to תלמידי חכמים