

18.08.01

77a (משנה א') → 78a (והלכתא בכפות)

1. י. ח. א. ה. בעל והיה אם לא תמצא חן עיניו ימצא ב ערות בר וכתב ל ספר ריתת ונתן יד ה. מ. יתו: דברים כז, א
2. אם ה. צא ת. צא קדו ה. גבה מ. ור עד חמור עד ה. ח. ים. ג. ים. ש. מות כב, ג

- I קבלת הגט for purposes of רשות
- a if he threw the גט into her property (house or courtyard) – valid - והיא בתוך ביתה וחצרה
- i source: v. 1 – ונתן expands beyond just her hand
- 1 parallel: v. 2 in re: returning a theft
- 2 justification:
- (a) if: we only had גט, סד"א the expanded domain of receipt is due to the coercive nature of the גט
- (b) and if: we only had גניבה, סד"א that the תורה fined him (double), therefore it also expands receipt to חצר
- ii challenge: her חצר shouldn't work, since anything she acquires becomes her husband's
- 1 answer1(א'): if he relinquished control over her property (א: כתובות ט:) in a valid way (written while ארוסה)
- 2 answer2 (ב'): same problem exists with putting it in her hand
- (a) Rather: גיטה וידה באים כאחד
- (i) Challenge: why is רבא bothered by her יד –husband doesn't own her hand – just rights to her wages
- (ii) Rather: רבא was bothered by the ability of an עבד כנעני to receive his own שחרור
- (iii) And answered: גיטו וידו באים כאחד –
1. parallel: with woman – גיטה וחצרה באים כאחד
2. background story: גט wrote on ע"ש; on שבת, his condition worsened; רבא instructed them to get husband to cede to her the spot where the גט lay – valid, since גיטה וחצרה באים כאחד
- iii meaning of בתוך ביתה
- 1 עולא she must be standing near or in her property
- 2 ד' אושעיא no need to be nearby
- 3 suggestion: perhaps they disagree if חצר is an extension of יד (must be nearby) or שליחות (may be distant)
- 4 rejection: all agree that קנין חצר is an extension of יד
- (a) עולא just as a hand is nearby, similarly with the חצר
- (b) ד' אושעיא just as a hand is under the deliberate watch of the owner, so with the חצר (בעלים)
- 5 story: man threw גט into his wife's חצר and it landed on a piece of wood
- (a) ruling: ר' יוסף – ר' יוסף – if the wood was 4x4 (אמות) it is an independent רשות and invalid
- (i) Question: whose courtyard – if hers, the wood should be hers also; if his, even if smaller – invalid
- (ii) Answer: he had lent her a space – people only lend one, not two spaces (if separate – no good)
- (iii) Note: if it is 10 טפחים high, or the wood has a unique name – even if less than 4x4, invalid
- b however: if he threw it into his own property – even if she was with him in bed – invalid
- i דבא only if it is his bed; but if her bed – valid
- 1 note: even though it's her bed in his property (קנה לוקח מוכר – קנה לוקח?)
- 2 answer: it's 10 טפחים high and is an independent רשות
- c note: if he threw it into her arms or hat-basket – valid
- i suggestion: the basket may prove that קנה לוקח מוכר – כליו של לוקח ברשות מוכר
- 1 rejection: the basket was on her (שמואל), tied to her arm (ר"ל) or resting between her legs (ראב"א)
- 2 alternatively: if her husband was a hat-basket seller,
- 3 also: the spot where she keeps these things is hers, since a man isn't מקפיד about those places in the house
- II מסירה upon גט purpose of משנה ב'
- a if he gave it to her as a שט"ח or she found it and it turns out to be a גט – invalid (must give it to her and say גיטיך הרי זה גיטיך)
- i note: in case where she found it, he had to have given it to her in some fashion (else its קרקע – invalid)
- ii dissent: רשב"א: רשב"א: take it back & give it to her, stating גיטיך הרי זה – dispute with רבי in both cases (found and sleeping)
- 1 Justification: if we only had מחלוקת in case of "found", סד"א that רבי validates since she is a גירושין (awake)
- 2 And: if we only had מח' in case of "sleeping", סד"א that רשב"א invalidates since she isn't גירושין – but would agree with רבי in case of "גט קמ"ל" – גט
- b if he put it in her hand while she was sleeping, she awoke and found it to be a גט – invalid
- i associated ruling: if he put it into her sleeping slave's hand – valid (if he's awake – לדעתה משתמרת בפסול – חצר שאינה משתמרת לדעתה)
- 1 note: must be a case where slave is tied down, else it is a deficiency of המהלכת חצר