

18.09.04

86a (משנה ד) → 87a (אי פליג להו זמן אין אי לא לא) (משנה ד)

- I ד משנה ד: Three types of invalid גיטין that, nonetheless, if she remarries and has children, they are not ממזרים
- a *Writer*: if the husband wrote it himself and there are no עדים
- b *זמן*: if there are עדים but no date
- c *עד אחד*: there is זמן but only one witness
- d *א"א*: even if there are no עדים signed on, as long as he gave it to her in front of עדים, it is valid
- i *And*: she can collect (כתובה) from encumbered property, since עדים only sign a גט for העולם
- 1 *Practicum (רב)*: we rule like ר"א in גיטין כרת (עדי מסירה כרת) and עדי שמואל extended that to all שטרות
- (a) *Challenge*: doesn't רב rule like ר"א in all שטרות? ר"א's ruling in our משנה includes גביית נכסים
- (i) *Answer*: רב didn't accept ר"א's opinion beyond גיטין
- (ii) *Note*: ר"א claimed that such a גט doesn't even have "ריח הגט" (defined below)
1. *Clarification*: ר' ינאי means that according to רבנן, this גט doesn't even have ריח הגט (parallel ר"א/ר"ל)
- (b) *Numerous accounts*: stemming from רב בית מדרשו של רב – that רב ruled in accord with ר"א for גיטין
- e *Challenge (גמ)*: there are other פסולים גיטין where the subsequent children aren't ממזרים
- i *גט ישן (if they had ייחוד afterwards)*: different – in that case, she needn't leave the 2nd husband, here she must
- 1 *Block*: that is only valid according to opinion (below) that in our case, she has to leave 2nd husband
- 2 *Defense*: בגט ישן, she may marry לכתחילה
- ii *גט קרח (if a מקושר was missing a witness)*: different – in that case, it is פסול (→ ממזרים)
- 1 *Block*: that's only true according to ר"מ; to חכמים, it isn't פסול בדיעבד
- 2 *Defense*: in that case, she must leave the husband
- (a) *Challenge*: in our case, there are some who maintain תצא as well
- (b) *Answer*: we aren't referencing a גט מקושר
- iii *שלום מלכות (if גט is written using a different reference point for date)*: different – in that case, תצא
- 1 *Block*: in our case, there are some who say תצא
- 2 *Answer*: our משנה follows ר"מ, who, in case of שלום מלכות, renders child a ממזר
- f *Inferences*: the 1st enumeration excludes these 3 פסולין
- i *2nd enumeration*: excludes (per ר"מ) גט from מדה"י w/o "בפ"נ בפ"נ" → the child of subsequent marriage is a ממזר
- g *דב*: the case in our משנה is if written by the husband
- i *Must be*: last case (1st case is explicit; 2nd case doesn't need it as there are עדים) → 1 sufficient only if ידו נכתב בכתב ידו
- 1 *However*: if written by a סופר and only 1 עד – invalid
- h *שמואל*: even if written by סופר and there's one witness – valid, per משנה "כתב סופר ועד כשר"
- i *דב*: in that case, there were 2 עדים ("חתם סופר שנינו") – and she may marry לכתחילה
- ii *שמואל*: true if it is an expert סופר; else, it falls under the rubric of our משנה
- 1 *Support*: ר' יוחנן reads that משנה as כתב סופר (not חתם סופר) – i.e. only 1 witness
- II Ruling on cases in our משנה if she remarried but didn't yet have children
- a *דב*: sometimes would rule תצא, sometimes לא תצא
- i *Resolution*: if she had children – לא תצא; if she didn't yet have children – תצא
- ii *Challenge (מר זוטרא בר טוביה)*: re: the 15 עריות who exempt their צרות from ייבום; ruling that if one had ספק קידושין or ספק גירושין (our 3 cases are used as examples), חולצות but no ייבום.
- 1 *But if*: we rule that תצא לא (i.e. גט judged to be valid), צרה may be מתייבמת (violating ערוה)
- 2 *Defense*: it really is a גט and the חשש is a "mere" חשש דרבנן → ייבום wouldn't constitute a violation
- b *לוי*: in any case, she doesn't leave 2nd husband (similarly, ר' יוחנן, along with ruling re: bird drinking from מי חטאת)
- III *ה*: משנה ה: swapped and combined גיטין
- a *If*: 2 identical גיטין were sent by 2 men and they got mixed up together
- i *Then*: both must be given to both wives
- 1 *Therefore*: if one is lost or destroyed, the 2nd is unusable (by either)
- 2 *Observation (ר' ירמיה)*: this is *contra* ר"א
- (a) *Argument*: per ר"א, since עדי מסירה כרת, the witnesses don't know which is divorced with which גט
- 3 *Dissent (אב"י)*: could even follow ר"א; perhaps he only requires לשמה, not כתיבה לשמה, נתניה לשמה
- b *If*: 5 wrote a גט under one heading (A divorces A1, B divorces B1 etc.) and the witnesses are below
- i *Then*: all are valid and it has to be given to each of them
- c *But if*: he wrote the form for each and the witnesses are below
- i *Then*: only those whose names are read with the witnesses are valid

- IV Analysis of 2nd clause – difference between כלל (1 heading) and טופס (for each)
- a ג' יוחנן if there is a single date for all 5, that is כלל; if a date for each (even if same date) טופס for each
- b ג' only if written as a single writ (e.g. Husbands A, B and C divorce wives A1, B1 and C1) is it כלל, else – טופס
- i Challenge (ר' אבא): why isn't ר"י concerned that the עדים are signing on the last one (only)
- 1 Support: תוס' גיטין ט:ט – if עדים are signed on a ד"ש which is at the bottom of a גט – it is פסול
 - (a) Reasoning: we are concerned that they only signed the ד"ש, not the גט
 - 2 Defense (ר' אבהו): ר"י commented on ד"ש-case, if the שטר stated "שאלו", invalid; but "ושאלו" is valid
 - 3 Similarly: our גט states A and B and C etc.
- ii Challenge: according to ר"י, why does 2nd case have limited validity due to טופס – why not due to pre-dated גט?
- 1 Answer: if each name states (e.g.) Sunday, Sunday etc. – same date as last one, to which עדים are signed
- iii Challenge: ר"ל's כלל seems to fail due to a case of 2 women divorced with one גט (contra implication of וכתב לה ספר)
- 1 Answer (ר' אשי): afterwards, it lists each couple separately
 - 2 Block (ר' בינא לר' אשי): if someone gifts all of his property to his 2 slaves, the קנין is valid and they free each other
 - (a) In other words: a שטר שחרור (parallel, via לה::לה to a גט) can free 2 slaves
 - (b) Answer: we've already interpreted that ברייתא as referring to 2 separate שטרות
- iv Supporting ברייתות: for each approach
- 1 ג' יוחנן if 5 are written in one גט with one זמן and עדים below – all valid and it must be given to each woman
 - (a) But if: there is a separate זמן for each, only the ones next to the עדים are valid
 - (i) Dissent: ר' יהודה בן בתירא – only if there is a break between them, invalid; if not – all are valid
 1. Reason: זמן is not a break
 - 2 ג' דיש לקיש if 5 are written in one גט
 - (a) As such: "we, A, B and C divorced our wives A1, B1 and C1; A divorced A1, B divorced B1 and C divorced C1" and there is one זמן for all of them and the עדים below
 - (i) Then: all are valid and the גט must be given to each woman
 - (b) But if: there is a זמן for each and a space between each of them and the עדים signed below
 - (i) Then: only the one next to the עדים is valid;
 1. Dissent: ר"מ – even if there is no space between them, the זמן is an interruption
 - (c) Question: why does ר"ל require a separate זמן – he even ruled that 1 זמן for all is a טופס?
 - (i) Answer: that's only if they weren't mixed into one list at first
 1. However: in this case, they were originally mixed together
 - a. If: each is given its own זמן, it is a separate גט
 - b. If: there is one זמן for all, it is all one גט and valid for all 5