

20.1.09

11b → (התם סדנא דארעא חד הוא) → (ואמר עולא א"ר אלעזר, הלכתא: גובין מן העבדים)

1. ויתן להם אביהם מתנות רבות לקסף ולזהב ולמגדנות עם ערי מצרות ביהודה ואת הממלכה נתן ליהורם כי הוא הבכור: דברי הימים ב פרק כא פסוק ג

I More rulings of ר' אלעזר reported by עולא

a Slaves may be used for collection (of debts)

i ר"נ asked עולא: "did ר"א apply this even to collection from orphans"? (implying that קרקע::עבדים)

1 answer: no – only to the debtor himself

2 challenge: certainly anything – even his own shirt – can be used for collection

3 defense: case is where debtor made the slave an אפותיקי (assigned for collection) and was sold – גובה מלקוח

(a) support from דבא: if he sold an עבד אפותיקי it may be used for collection, unlike a שור אפותיקי

(i) reason: sale of a slave is well-publicized (קלא), unlike sale of an animal

ii subsequently: עולא stated (out of earshot of ר"נ) that ר"א applied the ruling even to יתמי (i.e. קרקע::עבד)

1 cases: in נהרדעא and פומבדיתא, they ruled in accord and seized slaves as collection from estate (מיתמי)

(a) ד"נ: ordered that they be returned

(b) challenge: the judges of נהרדעא, פומבדיתא and ר"א (in טבריה) disagree

(c) retort: position based on ברייתא taught by אבימי:

(i) פרוזבול: works with land, not with slaves (i.e. need land to write one)

(ii) מטלטלין: may be purchased along with ("אגב" קנין) land, not with slaves

(d) suggestion: perhaps the status of עבדים as being כקרקע is subject to dispute among תנאים:

(i) if: he sold slaves and land; taking possession of either doesn't grant ownership of the other

(ii) if: he sold goods (מטלטלין) and land; קנין on land grants possession of goods; but not the inverse

(iii) if: he sold goods and slaves;

1. ברייתא #1: taking possession of slaves doesn't grant possession of goods (the inverse holds as well)

2. ברייתא #2: taking possession of slaves grants possession of goods (but not the inverse)

3. suggestion: the dispute between the ברייתות is whether slaves are considered קרקע (#2) or not (#1)

(e) AA (alternate approach) #1: all agree that slaves are land; ברייתא #1 understands that קנין אגב only works with land that is similar to "fortressed cities" as per source for קנין אגב (v. 1)

(f) AA #2: all agree that slaves are goods; ברייתא #2 refers to goods that the slave is wearing

(i) challenge: even if he is wearing them, that is קנין חצר and the slave is a חצר מהלכת (לא קנה)

1. answer: if he is tied down, it is a valid קנין חצר

(g) challenge (3rd ברייתא): if he takes possession of the land, the slave is acquired with it (contra earlier ruling)

(i) answer: that is a case where the slave is standing on the land

(ii) implication: then the ruling that purchasing the land does *not* grant ownership of the slaves – must be a case where they *aren't* on the land

1. this supports AA #2; but if we hold AA #1 – why need the slaves to be on the land?

a. שמואל ruled that 1 קנין on a field as part of a package is valid for all, no matter how far

2. retort: AA #2 is also challenged; no need for the slave (if מטלטלין) to be on the field – we rule (קידושין) that there is no requirement of צבורין (that the ancillary goods be on the primary land)

3. defense: mobile מטלטלין are different (and would require צבורין)

4. similarly: mobile "קרקע" is different (and wouldn't connect with other קרקע as in שמואל's ruling)

a. reason: all land is essentially connected; cannot be said of "mobile קרקע"