

21.1.07

8a (היו שנים רוכבין) → 9b (ואיהי דקא מסוגיא מתותה)

- I Analysis of משנה ב' and the relative impact of leading or riding on an animal as a קנין
- a רב יהודה told him that one of riding or leading is קונה and he didn't remember which – investigation:
- i *Couldn't be*: a question of מנהיג by itself – that's obviously a valid קנין
  - ii *Must be*: whether רכוב is קונה if there is also someone leading the animal
    - 1 *Lemma1*: does the rider have a stronger קנין, since he is holding it OR
    - 2 *Lemma2*: does the leader have a stronger קנין, since it is going on his account
  - iii (היה רב יהודה continues): let's examine – the משנה in כלאים (in re: כלאי בהמה) rules that the buggy-driver violates, but
    - 1 *חכמים*: the one sitting in the carriage also violates
    - 2 *ל"מ*: the one sitting in the carriage doesn't violate
      - (a) *And*: רב יהודה reversed the משנה so that the הלכה is that the one sitting *doesn't* violate
      - (b) → a rider isn't קונה (not considered in control) and certainly if there is also a מנהיג at the time
      - (c) *Challenge* (either יוסף ת"ר or רב יהודה ת"ר יוסף): a rider is at least holding onto the reins
        - (i) *Response*: the reins are irrelevant and not a קנין
        - (ii) *Reason*: a מוסירה (reins) is only valid for קנין from another (מוסר זל"ז), not for מן ההפקר or קנין מן ההפקר
- b *Challenge*: our משנה – which must be to רבנן, since ר"מ considers even someone sitting in the buggy to be in control
- i *Answer*: case is where he is leading with his feet while riding;
    - 1 קמ"ל – the leader should be in a stronger position as he is both in possession and leading – קמ"ל
- c *Challenge*: בריתא – 2 leading a camel, or driving a donkey; or one leading and the other driving – קנו במדה זאת קנו
- i *Dissent* (רבי יהודה): קנין is only valid if leading a camel or driving a donkey
  - ii *Challenge from beginning of בריתא*: riding is never valid (as it was omitted)
    - 1 *Rejection*: riding is valid; ת"ק picked up מושך ומנהיג ת"ק ר' יהודה who required specific form of leading for each
      - (a) *Challenge*: why not state them all together – 2 who were leading or driving...
      - (b) *Answer*: one of them is, indeed invalid according to ת"ק; unclear which (הנהגה בגמל/משיכה בגמל)
  - iii *Challenge may be from סיפא*: זו במדה זו excludes riding
    - 1 *Rejection*: זו במדה זו excludes בגמל OR הנהגה בגמל (unclear which)
- d *Support*: ruling that if one is riding a donkey and the other holding the reins – the rider is קונה the donkey
- i *And*: the one holding the reins is only קונה what he has in his hands
  - ii *Conclusion*: riding is a קנין
  - iii *Deflection*: could be a case where he is "leading with his feet" (while riding)
    - 1 *Question*: how does the rider get any part of the reins
      - (a) *Even if*: we say לחברו קנה חברו – that's only if he picked it up on behalf of the other fellow
      - (b) *But*: here, he picked it up for himself and wasn't successful – why should the rider be successful
    - 2 *Rather*: the rider is קונה the donkey and the top of the saddle (on the donkey), the other fellow is קונה the part of the reins in his hands and the rest is taken by neither
      - (a) *Therefore*: if it is רה"ר, or he's an אדם חשוב or a woman or a person of low standing – קנה
        - (i) *rejection*: statement is in error, since 2 who pick up a מציאה where one is better situated than the other – even though he could pull it to himself – still equally share the קנין
- e *support*: בריתא ruling that if someone is riding in the field or pulling in town – קנה
- i *Rejection*: may be "leading with his feet" – teaching two kinds of מנהיג
  - ii *Challenge*: if so, why isn't רוכב valid in town
    - 1 *Answer*: people don't generally ride in town
    - 2 *Rejection*: if so, if someone picks up a money pouch on שבת, shouldn't be קונה
    - 3 *Rather*: statement isn't about מציאה, rather מר"מ, and the seller told him to take possession "in the usual way"
      - (a) *Therefore*: if it is רה"ר, or he's an אדם חשוב or a woman or a person of low standing – קנה
        - (i) *Reason*: all of these aren't used to leading animals
- II ר"א's question: if seller has his wares on an animal can he have the buyer take possession of the animal to acquire the wares?
- a *Answer* (רבא): it'd be קונה as a חצר – but this is a mobile חצר, which can't acquire even if stationery – unless tied down
- i *Challenge1*: fish jumping into his boat shouldn't be his – חצר מהלכת
    - 1 *Answer* (רבא): the boat is stationery, the water moving
  - ii *Challenge2*: if a husband throws a גט into the woman's head-basket, shouldn't be גירושין – חצר מהלכת
    - 1 *Answer* (ר' אשי): the head-basket is stationery, she is moving under it