

21.1.08; 9b (משנה ג') → 11a (מר אמר חדא ומר אמר חדא ולא פליגי)

1. י ל ב ג י ? ר א ל ע ב ד י מ ה מ א ר ה ה ו צ א ת י א ו ת מ מ א ר צ מ צ ר י מ א ג י ה ' א ל ה י כ מ : ו י ק ר א פ ר ק כ ה פ ס ו ק נ ה
2. א מ ה , צ א ת , צ א ת , ב י ד ו ה , ג ב ה מ ו ר ע ד ח מ ו ר ע ד , ה ת י מ , ג י מ , : ש מ ו ת פ ר ק כ ב פ ס ו ק ג

I מציאה competing claims in possessing a משנה ג'

- a *if*: someone was riding on an animal and told another to pick up a מציאה for him
- i *and*: the other picked it up for himself, it belongs to the one who picked it up
- ii *but*: if after handing it over to the rider the other said that he picked it up for himself, this is ignored
- iii *backdoor*: עני: פאה on behalf an עני:
- 1 *חכמים*: give to first עני he meets (i.e. his קנין isn't valid for his intended recipient)
 - 2 *ל"א*: give it to intended recipient עני
 - (a) *עולא*: their dispute is only if the מגביה isn't an עני:
 - (i) *ל"א*: עני...and מייגו it works for him, it works for his friend
 - (ii) *חכמים*: we only employ one מגיני
 - (iii) *but*: if the מגביה is an עני, all agree his הגביה works for his fellow עני
 - (b) *ל"נ*: must posit the dispute as being לעני מעני, since everyone is an עני vis-à-vis a מציאה
 - (i) *and*: our משנה provides for no קנין on behalf of the other
 - (ii) *Therefore*: we could assign our משנה to ר"א of רבנן
 1. *but if*: we assume that all agree that לעני מעני is valid, why isn't his קנין valid for the rider?
 2. *answer*: in our משנה, the מגביה claims that he originally picked it up for himself
 3. *proof*: from use of תחילה in 2nd clause of משנה → 1st clause was also תחילה
 - a. *defense* (*ל"נ*): ר"א uses תחילה to indicate that רישא was without תחילה
 - 3 *Ruling*: ר"נ – if someone picks up a מציאה for a fellow, the other isn't קונה
 - (a) *Reason*: it is tantamount to acquiring on behalf of a בע"ח when it harms others' ability to collect – לא קנה
 - (b) *Challenge* (*דבא*): מציאה of a worker belongs to him, unless בעה"ב hired him to do "work" without specifying
 - (i) *Implication*: the פועל picking it up "on behalf" of the בעה"ב – goes to בעה"ב
 - (ii) *Defense*: this case is different, as the hand of the worker::hand of בעה"ב
 1. *in spite of*: פועל's ability to quit in midday (as per v. 1); while he is there, כיד בעה"ב
 - (c) *counter* (*ל' יוחנן*): המגביה מציאה לחברו קנה חברו:
 - (i) *Challenge*: our משנה
 - (ii) *Answer*: in our משנה, the rider said "give it to me", but not "acquire it for me"

II משנה ד' *if*: someone saw a מציאה and fell on it and another subsequently lifted it up, the one who lifted it up acquires it

- a *ל"ל* quoting ר"ל #1: אבא כהן ברדלא established that anything within a person's radius of אמות ד' is acquired to them
- i *reason*: to prevent fighting
- 1 *challenge* (*according to* *אביי*): פאה ד:ג – if he took some פאה and threw it on the rest – he loses it
 - (a) *answer1*: he didn't say אקני, and by falling on it, he demonstrated that he didn't want אמות ד' קנין ד'
 - (b) *answer2* (*ל"פ*): ר"ל didn't provide for ר"א קנין ד' in another's field
 - 2 *Challenge* (*according to* *דבא*): from our משנה
 - (a) *Answer1*: he didn't say אקני, and by falling on it, he demonstrated that he didn't want אמות ד' קנין ד'
 - (b) *Answer2* (*ל' ששת*): רבנן only extended ר"א קנין ד' to semi-private area, not to רה"ר where there are lots of people
- b *ל"ל* quoting ר"ל #2: אבא כהן ברדלא has no חצר (for קנין) nor ר"א קנין
- i *dissent*: ר' יוחנן maintains that she has both
- ii *Reason for dissent*: is חצר (& ר"א) an extension of יד (קטנה יש לה יד – לקבל גיטה) or שליחות (minors cannot appoint a שליח)
- 1 *C challenge*: all agree יד משום יד, חצר משום יד, as per extension of גובה to חצר from v. 1
 - (a) *And*: if it were an extension of שליחות, in this case there'd be שליח לדבר עברה (חצר where the גובה is found)
 - (i) *Deflection1* (*דבינא*): ר"ל שליח לדבר עברה is only said where the שליח is his own חיובא, unlike a חצר
 - (ii) *Deflection2* (*ל' סמא*): ר"ל שליח לדבר עברה is only said where the שליח has a choice (חצר has no choice)
 1. *split the difference*: if אבא tells a ישראל to be מקדש for him; or if a man tells a woman to shave the head of a קטן (only men are liable) – רבינא would allow for שליחות → שליח חייב
 - 2 *challenge*: all agree that חצר is an extension of יד as per ability to place גט into her חצר
 - (a) *answer*: all agree that vis-à-vis גט, חצר is an extension of יד (and קטנה has one) – disagree in re: מציאה
 - (i) *do we*: apply גט to מציאה
 - (b) *or*: all agree that a קטנה has ר"א חצר; disagreement vis-à-vis קטן (do we infer קטן from קטנה)
 - (c) *or*: no disagreement: ר"ל was referring to קטנה and/or גט; ר"ל was referring to קטן and/or מציאה