

21.1.14

16b (אטו כל דמגבי בני דינא מגבי) → 18a (אמר רבי אבהו אמר רבי יוחנן)

Note: we have already encountered אדרכתא שטר חלטתא and שטר אדרכתא; אדרכתא allows the creditor to search for properties of the debtor for seizure; אדרכתא confirms the right of the creditor to keep properties seized for a debt

- I ר' אבהו (שמואל *contra* שט"ח) - reported by ר' יוחנן
- a Even if: it has a הנפק (notarization), may not be returned – we are concerned that it was already paid
 - i Challenge (to ר' אבהו): הר"ז יחזיר: (ר' אבהו)!
 - ii Answer: not all cases are the same; in our case, the לווה is known to be a liar (הוחזק כפרן)
 - 1 Block: if he was found to be a liar one time, we assume that he never pays?
 - iii Rather: ר' אבהו כל מעשה ב"ד refers to שטרי אדרכתא וחלטתא (see note) - where פרעון isn't possible (as above)
- II Tangent: while discussing כפרן...
- a אדרכתא ר"נ if court orders לווה to pay and he says that he paid, he's believed & we don't write אדרכתא
 - i But if: the court finds him liable and he says that he paid, he isn't believed and we do write an אדרכתא
 - b אדרכתא ר"נ in either case, he is believed and we don't write an אדרכתא
 - i But: if ב"ד told him to pay & he claimed he did & עדים testify that he didn't – considered כפרן for that payment
 - ii However: if ב"ד found him liable and he said he paid and עדים testify that he didn't – not considered ממון לאותו ממון
 - 1 Reason: he's stalling, until the ב"ד looks into his case
 - iii Parallel ruling of ר"י: if A claims that B owes him money and B denies it, then עדים testify to the debt and then B says he paid – we don't believe him – ממון לאותו ממון (supporting story of ר' אבהו's כתובה)
 - iv Parallel ruling of ר"י: if A claims that B owes him an oath and B denies it, then עדים testify to that and B claims he already took the oath – we don't believe him; הוחזק כפרן לאותה שבועה
 - 1 ר' אבהו should only apply in ב"ד שבועת ב"ד, but if he obligates himself, sometimes people act this way (at first refusing then complying) and he isn't considered in contempt of court; confirmed by ר' אבין (who reported it)
- III Ruling of ר' יוחנן (quoted by ר' אסי) re: שט"ח
- a If: the שטר has a הנפק and it is dated "today" (i.e. same day as it is found) – may return it
 - i No concern: that it was already paid; people don't generally pay back on that day
 - 1 Challenge (ר' אסי to ר' זירא): ר' יוחנן ruled that a שטר that was already used may not be reused for a loan
 - (a) Reason: the שעבוד has already been forgiven (and can't be automatically regenerated)
 - (b) Note: it must be attempted to be reused on the same day, else it fails as an "early" שט"ח (שביעית י"ה)
 - (i) Implication: we see that sometime people pay back loans on the same day (as the שטר)
 - (c) Defense: it does happen but isn't common
 - (d) Defense #2 (ר' כהנא): in our case, the לווה admits to the debt (חייב מודה)
 - (i) Challenge: that is obvious
 - (ii) Answer: concern that it was already paid and the לווה intends to reuse the שטר and save the סופר-fee
 - (iii) However: the מלווה won't use this שטר as the שעבוד has been forgiven – no lien
 1. Challenge: why is this different than our משנה, which we posited as a case of חייב מודה; we don't return the שטר since we are concerned that the loan was made later and the מלווה would seize property that was sold prior to the actual loan; why would the מלווה use this שטר?
 2. Answer: in that case, the מלווה has an advantage of property that was sold in the meantime
 - a. However: here, he has no advantage to using the old שטר

IV ר' יוחנן's ruling about a claim made of payment of ב"ד – not believed

 - a Reason: any תנאי ב"ד (e.g. תנאי כתובה and כתובה) are considered as if they are written in a שטר
 - i Challenge: taught in משנה (ט: כתובות) that if she produces a גט, she can collect her כתובה
 - 1 Answer: perhaps that's in a place where they do not write כתובות and the גט is the כתובה
 - 2 Block: if so, how would an אלמנה מן האירוסין ever collect her כתובה – can't be with מיתה עדי, since the heirs will claim that she was paid
 - ii Note: source for כתובה for an אלמנה מן האירוסין:
 - 1 Could be: א: כתובות – that an אלמנה, from either נישואין or אירוסין, collects "it all"
 - (a) Block: perhaps only if he wrote it (taught *contra* ר' אב"ע who only allows collections of 100/200 for אלמנה)
 - (b) Proof: phrase "collects all" implies that he wrote one (otherwise, would only be 100/200)
 - 2 Rather: from ruling of ר' חייא that an ארוסה inherits her fiance's כתובה
 - (a) Block: perhaps only if he wrote it (taught for corresponding "if she dies, he doesn't inherit her [goods]")
 - 3 Rather: אב"י infers from wording of ט: כתובות – the גט doesn't state 100/200
 - (a) And: she won't allow him to tear it up when he pays, since she needs it as proof that she may marry
 - (b) And: he can't write "still valid but paid" since not everyone collects in ב"ד that they can write this