

21.1.15

18a (משנה ז') → 19a (ומקמי דידי מטא שטרא לידיה)

- I 'ז משנה ז' that, if found, are not returned – under the assumption that the potential giver changed his mind
- a גיטי נשים – שחרורי עבדים, שחרורי עבדים, גיטי נשים – gift given on deathbed, מתנה, שובר – receipt for payment of debt
- i *implication*: it is only on account of the concern that he changed his mind that we don't utilize the שטר
- ii *however*: if he directed it to be given (said תנו), it is given, even after a long lapse
- iii *challenge*: משנה גיטין ג:ג – if a שליח הגט loses and then recovers the גט he may only give it if found immediately
- iv *answer* (רבה): our משנה refers to a locale where there isn't much travel (→no reason to think the document came from another); גיטין ג is dealing with a locale frequented by caravans (→document may be another's גט)
- 1 *Limitation*: even in a place frequented by caravans, we return it unless we know of 2 men with the same name in town
- (a) *Proof*: else, רבה is inconsistent:
- (i) *Case*: in the court of הונא, ר' הונא found a document that identified a town named שוירי and הונא (well-visited court) requested investigation וכך there are two towns of that name
- (ii) *Conclusion*: רבה found our משנה that states "all מעשה ב"ד are returned"
- (iii) *Implication*: even in a place frequented by travelers, we only hold the document if we know of 2 men with same name in town
1. *Reason*: we aren't concerned that this document belongs to another person
- (b) *Support*: רבה ruled this way in practice, in a case where either:
- (i) *The location*: wasn't well-traveled, even though there were 2 men of the same name OR
- (ii) *The location*: was well-traveled, but there weren't 2 men of the same name
- b *Alternate challenge* (ר' זירא): ג:ג *contra* גיטין ג:ג:
- i *If*: a גט אשה is found, if the husband admits to having given it, it is give to the woman – even after a lapse
- 1 *Answer*: משנה is in frequently traveled location, ברייתא is in non-traversed place
- (a) *Version 1*: even if we know of two men with same name in town (agrees with רבה)
- (b) *Version 2*: only if we don't know of anyone else with that name (disagrees with רבה)
- c *Analysis of ד' זירא ט רבה*:
- i *רבה* preferred to challenge using a משנה rather than a ברייתא
- ii *ד' זירא* doesn't accept the inference from our משנה that if the dispatcher said תנו, we give it even after a long time –
- 1 *perhaps*: we only give it immediately, as per ג:ג גיטין
- d *alternate answers to challenges*:
- i *ד' ירמיה* in "out" cases (where we return it) – עדים aver that they've never signed another שטר for that name
- ii *ד' אשי* in "out" cases, there is a סימן מובהק (like a hole next to a particular letter) on the שטר
- 1 *note*: it must be a clear סימן, not just a hole anywhere
- (a) *reason*: ר' אשי is unsure if סימנין דאורייתא or דרבנן and isn't willing to permit אשת איש without סימן מובהק
- iii *Story*: רב"ח (agent) lost a שטר in the בימ"ד; he had סימנין עין and טביעות עין (since he is a צורבא דרבנן)
- 1 *Result*: it was returned, but he didn't know if they felt דא' סימנין (→applies to all)
- (a) *Or*: on account of his טביעות עין, in which case it would only apply to תלמידי חכמים
- II *Revisiting the ברייתא raised by ד' זירא*:
- a *If*: he finds a גט in the שוק and the husband admits that he gave it to his wife, it is returned to her
- i *Even though*: we have reason to be concerned that he wrote it earlier than giving it and she will use it to seize פירות that he (legally) sold in the intervening period
- 1 *Note*: it works fine if according to מ"ד that once he decides to divorce her, he loses פירות (seizure is licit)
- 2 *But*: according to מ"ד that he has פירות until גט is given – how do we allow it?
- (a) *Answer*: when she comes to seize פירות, we demand she show proof of when she received גט
- (b) *Question*: why is that different than our treatment of משנה ו, where we do not return שט"ח with שט"ח out of concern that the loan was given later than the date – why don't we just demand that the מלווה prove when he paid the loan and be allowed to seize לקוחות from that date on?
- (i) *Answer*: in the case of גט, the לוקח will make the claim and demand the proof, figuring that the only reason the גט was returned to her was to prevent her from being an עגונה
- (ii) *But*: in our case (ב"מ א:ו), the לוקח assumes that the שט"ח was returned to the מלווה because the ב"ד checked it out thoroughly and it is accurate and the loan must've been made before the לוקח bought the land