

22.5.2

75b (עיסקא דבגוה) → 77b (איתמר ספינה רב אמר)

- I Continued analysis of משנה 18 form of קנין of boat
- a רב משיכה on any part is valid for the whole ship
  - b שמואל: must pull entire ship in order to take possession
    - i Suggestion: dispute parallels dispute regarding משיכה of an animal:
      - 1 ת"ק if it raises front and rear leg (in response to new master calling or hitting it) – קנה (רב?)
      - 2 אחא ד' must walk its own length (שמואל?)
    - ii Rejection: either position could be harmonized with both רב and שמואל:
      - 1 רב – אחא – ר' only vis-à-vis animal, raising a limb doesn't move animal; if part of a boat is moved, it all moves
      - 2 שמואל – ת"ק only vis-à-vis animal, since it lifts a limb, the rest is ready to go – but a boat must all be pulled
    - iii Suggestion: perhaps their dispute parallels this one:
      - 1 (original read): boat is acquired through משיכה; ר"נ – boat and note acquired through שטר or משיכה
        - (a) Observation: "notes" are a non-sequitur here
        - (b) (fixed version): boat acquired via משיכה and notes with מסירה ר"נ; ר"נ agrees re: boat and says notes are בשטר
          - (i) If so: ר"נ agrees with ת"ק –
          - (ii) Must be: they disagree about רב vs. שמואל (whether entire boat must be pulled)
      - 2 Rejection: all agree (רב OR כשמואל), disagree about notes (whether they can be bought without a שטר)
      - 3 Follows: dispute רבי/חכמים if אותיות נקנות במסירה (רבי – may be; חכמים – only בשטר)
        - (a) Challenge: if so, ת"ק of ר"נ holds like רבי – why can't a boat be bought במסירה as well, as per:
          - (i) מסיירה דבי: boat may be acquired via מסירה
          - (ii) חכמים: must pull it (משיכה) or rent out its space
        - (b) Resolution: in רה"ר, must be מסירה; in a back-alley (e.g.), may be משיכה
          - (i) Challenge: last statement is in רה"ר – but from whom could he rent space and משיכה is invalid there
            - 1. As per: ruling of אביי ורבא
            - (ii) Answer: עד שימשכנה means until he pulls it into a back alley
              - 1. And: if it's in the domain of the owner, until he rents out the space
          - (c) Suggestion: רבא and אביי agree with רבי (that a boat can be acquired via מסירה ברה"ר)
            - (i) Modification: if the seller told the buyer וקני חזק וכן, indeed – מסירה certainly works (even רבנן agree)
            - (ii) Rather: if he says וקני משוך – did he mean only משיכה (רבנן) or was it just an example (רבי)
        - 4 Ruling (פ'): if someone writes sells a note, he must write – in the שטר – "this note and all of its שעבודים"
          - (a) Challenge (ר' אשי): if he doesn't write this – is it not קונה? Why did he write the שטר?
          - (b) Defense: for whatever use (to cover his plate) – but it isn't קונה
        - 5 Final ruling (אמימר): אותיות נקנות במסירה (no שטר needed)
          - (a) Question (ר' אשי): is this סברא or tradition? (A: tradition)
          - (b) support (ר' אשי): it's also סברא, since all he is buying is words and words alone can't effect that קנין
            - (i) Challenge: there are 2 types of שטרות (רב)
              - 1. if he: independently directs the giving of a field and the writing of שטר – can retract שטר, not field
              - 2. if he: ties them together conditionally, can retract both
              - 3. add (ר' הונא): if seller writes it in advance of buyer coming (legitimate)
                - a. As soon as: the buyer takes possession of the field, שטר becomes his property
                - b. Implication: שטר can be bought with words
              - 4. defense: קנין אגב is different (as per story with ר"פ with acquisition of money owed him)

II Analysis of end of משנה 18 exclusions from sale of boat

    - a Slaves (sailors)
    - b Cargo boxes
    - c Cargo holds – meaning its contents (the cargo)