

22.5.12

86a (תנן התם) → 87a (וקני כל מה שעליה)

I Possible limits to משיכה:

- a משיכה are acquired via מטלטלין – משנה (קידושין א:ה):
 - i *Comment* (ר' חסדא, as per Suran version; ר' כהנא or ר' אבהו as per Pumbedian version) : only applies to things which cannot be lifted, but if הגבהה applies, משיכה does not work
 - ii *Challenge* (ר' אבהו בר אבהו, who related the statement): ruling that if one steals a money pouch on שבת, he is nonetheless liable (מ"מ קלב"מ doesn't attach), since monetary liability was immediate, but הוצאה only happened when he took the pouch outside
 - 1 *However*: if he was dragging the pouch, exempt; since liabilities are simultaneous
 - (a) *Explanation*: a pouch is liftable – משיכה shouldn't obtain
 - (b) *Defense*: context is a large pouch (too big to lift)
 - iii *Challenge* (continued): ברייתא (above) – if he is in רשות מוכר, takes possession by lifting or pulling it out
 - 1 *Explanation*: both הגבהה and משיכה are valid קנינים on one item
 - (a) *Defense* (ר' נב"י): statement is distributive: if small, הגבהה; if not – משיכה
 - iv *Challenge*: our משנה – משיכה is valid for acquiring פירות (which can be lifted)
 - 1 *Answer*: context is large and heavy bushels of fruit
 - 2 *Challenge*: our משנה requires הגבהה for flax – can't that also be in big bales?
 - (a) *Answer*: it isn't put in big bales because it slips out → always הגבהה בר
 - v *Challenge*: ברייתא reports dispute (ר"מ ורשב"א/חכמים) if דקה בהמה is bought בהגבהה or במשיכה
 - 1 *Explanation*: we assume דקה בהמה to be liftable
 - 2 *Answer*: דקה בהמה might not be liftable as it gets stuck in the dirt

II Tangential discussion about another aspect of commerce

- a רב ושמואל: if someone sells a כור for 30 - either can renege until the last minute
 - i *But if*: he sells a כור for 30, at a price of 1 סאה per סלע – each סאה is acquired as it is measured out
 - ii *Challenge*: our ברייתא (above) – if the מדה belongs to buyer, each drop is acquired – even though the מדה wasn't filled
 - 1 *Defense*: case where seller agreed on price for whole, at a breakdown price per sub-unit
 - (a) *As per*: ר' כהנא's claim that they had sub-הין markings on the הין measure in the מקדש
 - iii *Challenge*: if someone hires a worker off-season to work during season at rate n and pays him before season
 - 1 *And then*: when season comes, the labor rate is $4n$, prohibited to allow him to work at that rate (כרביית)
 - 2 *But if*: he hired him to begin immediately at a daily rate – and the value at season was greater – מותר
 - (a) *Explanation*: if we accept רב ושמואל's ruling above, each day should be a separate unit and once the labor price is higher, benefit should be אסור – as אגר נטר (רביית prohibition of "getting paid to hold onto cash")
 - 3 *Defense* (רבא): there is no prohibition in working for less to guarantee income
 - (a) *Therefore*: when all the payment is in advance of his work – looks like אגר נטר – forbidden
 - (b) *But when*: he begins work immediately, doesn't look like אגר נטר - permitted

III Comment on last line in משנה – if the flax was in the ground and he uprooted any of it – קנה

- a *Explanation*: case was where seller told him to "clear that corner of the field and acquire whatever is there"