

22.8.15

126a (אמר רב הונא אמר רב אסי) → 126b (ויתרתה בכל הנכסים כולן)

I Rulings of אסי רב regarding בכורה:

- a If: a בכור protests (against his brothers improving the property before division; an improvement of which he will not get פי שנים) – his protest is valid and, if there is an improvement nonetheless, he gets פי שנים of it.
 - i Extent:
 - 1 דבה: only if they picked grapes or olives (still grapes/olives)
 - (a) But: not if they crushed them (now wine/oil)
 - 2 ד' יוסף: even if they crushed them
 - (a) Challenge: if they crushed them, certainly it is a new item and the בכור cannot get פי שנים
 - (b) Explanation: as per ר' עוקבא בר חמא – for the loss to the value of the grapes (if the wine was bad)
 - (i) Original context: ruling of שמואל that if father left a בכור ופשוט grapes/olives and they harvested them – even if they crushed them – בכור gets פי שנים (רעב"ח) – meaning, בכור is compensated for loss to his פי שנים of grapes/olives if the wine/oil is bad
- b If: a בכור took a regular portion, he has forfeited his בכורה-claim
 - i Application (two versions of רבא)
 - 1 ר' פפא: he forfeited only on that field
 - 2 ר' פפי: he forfeited his בכורה-rights on all fields
 - (a) Basis for dispute: whether the בכורה has ownership before the division
 - (i) ר' פפא: he doesn't own until division; he only forfeits that which he got, nothing else
 - (ii) ר' פפי: he has ownership before division → his forfeiture is on the entire estate
 - (b) Inference of their positions from case:
 - (i) בכור sold entire estate; heirs of his פשוט-brother came to collect payment from לקוחות and the new owners attacked them; the relatives protested "not only did you buy their property, now you attack them!" – the case came to רבא:
 - (ii) Ruling (רבא): the sale was invalid
 - 1. ד' פפי: half of the sale was invalid (the other's part) → בכור does have ownership of his own portion before division
 - 2. ד' פפא: none of the sale was valid → בכור does not have ownership of his own portion before division
 - (iii) Final ruling: the בכור does own his portion before division (as per ר' פפי)
 - (iv) Support: ר' אשי ruled that a בכור (מר זוטרא) who divided one basket of pepper with his brothers as equals (כפשוט) forfeited his בכורה-rights on the entire estate