

22.8.20

132a (תנן התם הכותב נכסיו לבניו) → 133b (אני ה' בעתה אחישנה)

1. הקטן יהיה לאלף והצעיר לגוי עצום אני ה' בעתה אחישנה: ישעיהו פרק ס פסוק כב

- I Continuation of discussion regarding assigning all properties to one heir/family member
- a *נא: גז:* if he assigns property to his sons & assigned any amount of land to his wife – she loses כתובה (from this קרקע)
- i *Explanation:* why woman loses her כתובה rights (considered a leniency of כתובה)
- 1 *דב:* if husband makes her the vehicle for gifting to the sons
 - 2 *שמואל:* if he divides in her presence and she is silent (doesn't protest)
 - 3 *אני ה' יוסי בר חנינא:* if he tells her to take this land for her כתובה
- ii *Rejection:* כתובה-collection
- 1 *ת"ק* → requires writing and her acquiescence
 - (a) *Suggestion:* perhaps ת"ק also requires only her acceptance
 - (b) *Block:* explicit ברייתא explaining position of חכמים – must be present and accept it
 - (c) *Therefore:* all the above positions (requiring far less) are rejected
 - 2 *Question (ל"נ of רבא):* what's your position?
 - (a) *Answer:* once he makes her a partner with the other sons, she loses her כתובה
 - (i) *Question (רבא):* does this also hold for a בריא?
 1. *Lemma1:* it only holds for a שכ"מ because she knows that he has no more for collection
 - a. *But:* in case of בריא, he may acquire more later from which to collect
 2. *Lemma2:* even בבריא, she looks at his current holdings – תיקו
- b *Cases:*
- i *Case 1:* man assigned 1/2 of his property to each of his 2 daughters, and 1/3 of the פירות to his wife
- 1 *Question:* can she still collect כתובה?
 - 2 *Answer (ל"נ בשם שמואל):* even if he gave her only one tree – she loses her כתובה
 - (a) *Counter:* that is if he gave her קרקע; here, he only gave her מטלטלין (פירות)
 - (b) *Answer:* indeed, if it was only מטלטלין, she still collects her כתובה
- ii *Case2:* man gave 1/3 to each of his 2 daughters and 1/3 to his wife; 1 daughter died (before father)
- 1 *ל"פ:* considered not giving wife more than 1/3
 - 2 *Counter (ל"נ ר' כהנא):* if he had acquired more property, she would have a stake in it – so she gets 1/2 of this
- iii *Case3:* man divided his estate between his wife and his son, leaving one tree
- 1 *ל"נ ר' חנינא:* considered that she should only get that one tree for כתובה
 - 2 *Counter:* if she only has the tree – she doesn't even have that
 - (a) *Rather (ל"נ ר' יימר):* since she has rights to the tree, she can collect from entire property
- iv *ל"נ ר' הונא:* if a שכ"מ assigns all of his property to another
- 1 *If:* he is a proper heir, he collects as ירושה
 - 2 *If not:* he collects as a gift
 - (a) *ל"נ:* this is a deceptive ruling; just state that you rule like ריב"ב
 - (b) *Rather:* perhaps the case was someone dying who was asked if he wanted to assign his estate to פלוני and he answered "rather, to whom?" – then, if פלוני is an heir, he receives as a ירושה; if not, as a מתנה
 - (i) *Practical difference:*
 1. *Consideration (ל"נ ר' אב"א):* only if as יורש is the widow fed from that estate
 - a. *Block (רבא):* if she is fed from מה"ת ירושה, certainly from מד"ס מתנה
 2. *Rather:* as per ריב"ב, if the first (in an אחריו sequencing) is a proper heir, it doesn't continue
 - a. *Reason:* ירושה doesn't cease
 - b. *Challenge (ל"נ ר' אבהו):* but he put a "stop" into it by directing it אחריו
 - c. *Answer:* that is מתנה ע"מ שכתוב בתורה – so it is negated and follows ירושה-line
 3. *Story:* ר' עיליש was about to award an אחריו to the next in line (when the first was a proper heir); he was corrected by רבא, who then consoled him with v. 1