

22.8.21; 133b (משנה הז) → 135b (תיקו)

1. להנחיל אהבי יש ואצרתיהם אמלא: משלי ח, כא

- I **משנה הז**: if someone assigns all of his property an outsider and completely cuts his sons out of the estate – it is valid
- a *However*: the **חכמים** are not pleased with this behavior
- b **דשב"ג**: if his son was behaving inappropriately – they are pleased
- i *Question*: do **חכמים** disagree with **דשב"ג**?
- 1 *Attempt*: to answer from story of **ר' יוסי בן יעזר** (unsuccessful)
 - 2 *Ruling*: **ר' יהודה** told **שמואל** never to approve a diminishing of **ירושה** – even from a “low” son – and certainly from son to daughter (i.e. **חכמים** disagree with **דשב"ג**)
- c *Story*: man's sons were behaving badly, he wrote all of his property over to **עוויאל בן יונתן**, who divided it into 1/3s
- i *Division*: 1/3 sold; 1/3 **הקדש**; 1/3 returned to sons
- 1 **שמאי**: came to challenge his gift to sons (against wishes of **מת**)
 - 2 *Response*: if he can retract the sale and **הקדש**, he can retract the gift to sons; else – not
 - 3 **שמאי**: originally (didn't know about the **הקדש**) thought the assignment to **יב"ע** was invalid unless he followed the **מת**'s wishes, but once he learned about the **הקדש**, as per **דבית חורון**, conceded
- (a) *Tangent*: **ברייתא** about **הלל**'s 80 students – **ר' יב"ע** the least, **ר' יב"ע** the greatest
- II **משנה וז**: of the father vis-à-vis a son or brother
- a *If*: he identifies a son – believed (for **ירושה** – and for exempting wife from **ייבום**)
- i *Challenge*: both of these are explicitly taught elsewhere
- 1 *Answer*: credibility about son only taught (in **קידושין**) in case where we don't know of a brother – here, even if there is a brother, **זו בני** exempts wife from **ייבום**
 - 2 **שמואל**: reason for father's credibility about the son (to exempt from **ייבום**) – “**הואיל**” – because he could divorce his wife at any time (thereby exempting her from **ייבום**)
- (a) *Implication* (**ר' יוסף**): if a husband states that he divorced his wife – believed (due to **הואיל**)
- (b) **ד' יוחנן**: a husband is *not* believed to say **את אשתי את גרשתי** (**ר' יוסף**'s “**הואיל**” is busted)
- (i) *Challenge*: **ר' יוחנן** ruled that he is believed
 - (ii) *Resolution*: regarding the past, not believed; from here on in – believed
 - (iii) *Question*: what if he testifies about the past – is he believed vis-à-vis the future? (**פלגינן**?)
 - (iv) *Ruling*; dispute between **ר' מאיר/ר' זביד**
1. *Challenge*: why doesn't conform with **ר'בא**'s ruling:
 - a. **דבא**: A may join B to testify about A's wife's adultery – only regarding the **נואף** (**פלגינן**)
 - b. *Answer*: we apply **פלגינן** to separate objects (wife & **נואף**); not to 1 (wife – past/future)
- ii *Story*: man was dying and they asked about the status of his wife: “she is fit for **גדול**” (i.e. not **לייבום**)
- 1 **דבא**: allow her to marry, as per **ר' יוחנן**'s ruling that we believe the husband
- (a) **אבני**: but **ר' יוחנן** ruled that we don't believe the husband
- (b) *Counter*: we already resolved that – and this is **להבא** (vis-à-vis the future)
- (c) *Block*: shall we rule based on the resolution of a contradiction?
- (d) **דבא**: conceded the point and didn't allow her to marry
- iii *Story*: man, of whom we knew no brothers, stated that he had no brothers (→ **ייבום** no) and died
- 1 *Ruling*: nonetheless, we should be concerned that there are **עדים** somewhere who know of brothers (≈ **שבויה**)
- b *But if*: he identifies **אח** – not believed (to inherit with other brothers), but that “**אח**” shares the declarant's portion.
- i *If*: the “brother” dies, the property reverts to the declarant
- 1 *Question* (**דבא**): if there is “organic appreciation”, which isn't “ready for harvesting”, does it revert? **תיקו**
- ii *If*: the “brother” gets property from elsewhere, when he dies, the other brothers share in his **ירושה** with declarant
- 1 *Analysis*: what is the counter of the other brothers? – must be that they deny his fraternity
- (a) *Challenge*: **סיפא** – if “**אח**” gets other property, all brothers share in it (as **ירשיים**)
- (b) *Answer*: they said “we don't know”
- (i) *Implication*: if someone claims money and “**ליוה**” says he doesn't know – **פטור** (!) (“**tho** **ברי**”) (שמא > **ברי**)
 - (ii) *Block*: in this case, it is as if he is claiming that they owe someone else money – **פטור**