22.8.23; 137a (א"ר יוחנן הלכה כרשב"ג) → 138b (בית דינא בתר עדים דייקי)

- I Continued analysis and ruling in dispute אחריך about status of an אחריך sequence
 - a הלכה כרשב"ג: ג'' יוחנן (2nd only gets what 1st leaves untouched; 1st's use of property, sale and income are his)
 - i However: מתנת שכ"מ agrees that if 1st gave it to another as a מתנת שכ"מ, the "other" has no claim and the אחריך (#2) has full rights
 - ii Reason (מתנת שכ"מ: only takes effect after death and by that time, #2 acquired it
 - 1 Challenge: רבא said that מתנת שכ"מ (contra רבא) takes effect with death
 - 2 Answer: he ceded to אבי, as per גיטין זיג a posthumous is invalid because it is charged after death
 - b Nuances of יוחנן 's ruling:
 - i עבדים כנענים and $1^{\rm st}$ frees them
 - סד"א the donor didn't give them to be used for סד"א. the donor didn't give them to be used for קמ"ל (לעולם בהם תעבודו) איסור
 - ii η תכריכים even if 1st uses them for אסורים בהנאה (→ אסורים בהנאה)
 - 1 סד"א. donor didn't intend them to be used for קמ"ל איסור הגאה
 - c אחריך if donor gives A an אחריך with an אחריך clause
 - i If: 1st uses it, his status vis-à-vis חיוב ד' מינים (did he fulfill obligation?) is subject to dispute רבי/רשב"ג (above)
 - 1 Challenge: in that case, they disagree about קנין פירות but here, if he can't use it for , why was it given?
 - ii Rather: if 1st eats it or sells it his חיוב towards 2nd is subject to רבי (liable) v. אין לשני אלא מה ששייר ראשון) רשב"ג
 - d Related ruling: if the brothers bought an אתרוג with the as-yet-individed estate funds and one uses it for מינים
 - i If: he has the rights to eat it יצא (only if each one has an אתרוג)
 - e Related (צבא): if someone gives an אתרוג to another on condition he return it; he is only יוצא if he returns it
 - i Teaching: that a מתנה ע"מ שיחזיר is a valid gift
 - f Story: a woman had a tree in ביבי's property; whenever she came to access it, he harassed her
 - i So: she gave it to him with an אחריך clause to return to her; he gifted it to his minor son (to keep it in family)
 - 1 Retort: even משב"ג agrees that if donor gifts it with a return-אחרץ, the recipient may not sell it etc.
 - g מקריש if someone gives another an animal with a condition of return and he is מקריש and returns it
 - i It is: returned and הקדש!
 - ii *Challenge (דבא*): what did he return? (answer: what is missing?)
 - iii אשי. this depends on the original wording:
 - 1 החזירהו he returned it (no liability)
 - 2 *החזיריהו* he meant to return it in a condition that "I can use" liable

II Recipient's protest

- a שמואל: if the recipient is "screaming" that he doesn't want the gift קנה nonetheless ; ישמואל לא קנה :ר' יוחנן
 - i Resolution: if he protests from the beginning no קנין; if he is first silent קנה
- b דעב"י. if he was silent then protested when it was being acquired through an intermediary dispute רשב"ג/חכמים
 - i ברייתא. if A gifted as מתנת שכ"מ his entire estate to B and it included slaves and B refused them
 - תרומה if B was a כהן, they eat תרומה (nonetheless)
 - 2 איי. if he refused them, the heirs immediately take possession (חרומה)
 - (a) And: we explained that the dispute is only in a case of זיכה להן ע"י and he was silent, then protested
 - (i) דבנן silence at first indicates acquiescense
 - (ii) זישב"ג. silence was due to his reasoning that they weren't his yet, no point in protesting

III More rulings about מתנת שכ"מ

- a שכ"מ gifted 200 to A, 300 to B and 400 to C; there is no sequence → בע"ח כollects from any of them
 - i But: if he sequences them in an בע"ח-scheme, בע"ח begins with last one
- מלק בכורה if he gave 200 to his בכור as befits him" this is in addition to his חלק בכורה
 - i But: if he says "he will get 200 as his בכורה, he can choose which to take
 - ii Parallel rulings: regarding wife and her בע"ח, כתובה and the debt
 - 1 Note: this follows ר"ע who infers from superfluous wording "חוץ מאלו" (above, כראוי לו here כראוי לו is extra
- c שכ"מ if a שכ"מ states that פלוני owes him money (note ר' הוגא has flipped version of positions)
 - i עדים "עדים write it down \rightarrow will not allow collection, heirs must prove the debt
 - ii חכמים. don't write it unless they know the debt to be real → no need for proof at time of collection
 - 1 *Point of dispute*: concern for שי"ב who will collect without investigating הלכה: no concern (כחכמים)
 - 2 Question: why is this different from חליצה ruling that חליצה ומיאון cannot be done if they don't know the woman → another חליצה או שטר מיאון another שטר חליצה או שטר חליצה או שטר מיאון based on עדים who saw the שלר חליצה או מיאון in another ב"ד
 - (a) Answer: עדים won't check after another חליצה/מיאון (as in חליצה מיאון case), but will check after עדים (our case)