

22.8.24

138b (משנה ז) → 139b (סיום הפרק)

- I ז: משנה 2: what remains for heirs after gift
- a *Father may*: give פירות to another, and what remains picked but not given away goes to heirs
- i *Implication*: whatever is still rooted goes to recipient
- ii *Challenge*: תוספתא כתובות ח:ה: we must estimate value of land – but פירות מחוברין go to heirs
- iii *Answer*: in the case where the gift was to his son, the rest of the heirs do not get מחוברין; if to another – they do
- II ז: משנה 3: Regular ירושה (without gifting) vis-à-vis sons
- a *If*: he left adult and minor sons, neither group gets sustained at the expense of the other – they divide equally
- i *Related ruling (רבא)*: if an adult son uses the estate to dress well, the expense is acceptable
- 1 *Challenge*: from our משנה
- 2 *Answer*: our משנה is referring to a wastrel who isn't doing anything to promote interests of heirs; רבא's ruling refers to an adult who is looking out for their interests and needs to dress well to "make an impression"
- b *If*: the older sons married while father was alive and now the young sons wish to marry, the young sons may not demand an equal share for marriage as father gave older ones while alive
- III ח: משנה 4: Regular ירושה vis-à-vis daughters
- a *If*: he left adult and minor daughters, neither group gets sustained at the expense of the other – they divide equally
- b *If*: the older daughters married while father was alive and now the young ones wish to marry, the young daughters may not demand an equal share for marriage as father gave older ones while alive
- c *Contrast*: girls **are** fed at the expense of sons; not at the expense of other daughters
- i *Associated discussion*: request sent to רבא:
- 1 *If*: a girl borrowed money (מלוה על פה) then married, is husband a לוקח (of his wife's property) and lender may not seize property from him or is he a יורש and בע"ח may seize property from him?
- 2 *Answer*: our משנה – if the older girls married, younger girls may marry
- (a) *Doesn't it mean*: if the older girls married their husbands, the younger ones (orphans) may marry from the account of the husbands? (יורש)
- (b) *Rejection*: means – just as older ones married husbands, younger ones may also marry husbands
- (i) *Challenge*: ר' חייא explicitly read our משנה – the younger ones are married off by the husbands!
- (ii) *Rather*: dowry is like a מלוה בשטר, since everyone is aware of the obligation (no proof)
- (c) *ר"פ (to רבא)*: isn't this the substance of רבין's ruling:
- (i) *If*: a man left a widow and daughter, they are both fed from his estate
- (ii) *And if*: the daughter married, widow is still fed from his estate (from son-in-law)
- (iii) *And if*: daughter dies, widow is still fed from estate (son-in-law is יורש and the בע"ח – the widow – may collect from him)
- (iv) *אבוי*: without רבין, we would know the answer:
1. *יורש* (→) חלק בכורה – ביובל בכורות ח: י: these are not returned
- (v) *Counter (רבא)*: even with רבין, we still don't know (the answer) –
1. *Explanation*: ר' יוסי בר חנינא reported that in אושא they enacted a ruling that if a wife sells נכסי מלוג and then predeceases her husband, husband may seize from לקוחות (→ לוקח!)
- (vi) *Solution (ר' אשי)*: חכמים made him as a לוקח or יורש – each to his benefit
1. *יובל*: he is an heir (doesn't have to return)
2. *נכסי מלוג*: he is a buyer (can seize from later buyers)
3. *רבין's ruling*: they made him as a יורש to help her
- a. *Challenge*: in נכסי מלוג, other buyers lose
- b. *Answer*: they should have exercised more care and not bought מלוג from a woman currently married