

22.9.5

143b (משנה ג') → 144b (שומר נפשו ירחק מהם)

7. צנים פחים בדרך עקש שומר נפשו ירחק מהם: משלי כב, ה

I 'משנה ג': improvement of property by adult sons or widow

- a *If*: adult and minor sons inherited and adults improved property – all share in appreciation
  - i **דנא**: this is only if the property was improved on its own merit
    - 1 *But*: if the adult heirs put their own effort and resources into improvement – belongs solely to them
      - (a) *Challenge*: ruling that even if father left them a well, the improvements are shared
      - (b) *Defense*: in that case, anyone can take care of it (even the minor heirs) – it just requires watching
    - ii *However*: if adults testified that they were improving property for themselves – improvements aren't shared
      - 1 *Story*: **ר' ספרא** improved property on his own; **רבא** ruled that he keeps the appreciation, since he wouldn't take time from his studies to improve property if not for his own benefit
  - b *parallel*: widow who improves property – improvements are shared with other heirs
    - i *note*: this must be a case of a woman who is also an heiress
      - 1 *justification*: **סד"א** she wouldn't work if not for her own benefit and we should consider it as if she declared that she was working for herself – **קמ"ל** that without an explicit declaration it goes to the common fund
    - ii *however*: if she testified that she was improving her property only – she keeps the appreciation
      - 1 *justification*: **סד"א** working for heirs enhancing her reputation and it is worth it for her to work for heirs **קמ"ל**
      - 2 *tangent*: if a man marries off his son in a house set aside for **בית חתנות** – son acquires house
        - (a) *limitations*: only if son is eldest, the girl is a **בתולה** and is son's 1<sup>st</sup> wife and he is first of sons to marry
        - (b) *associated*: if father set aside a house which had a 2<sup>nd</sup> story – son only acquires house
        - (c) *question*: what if he set aside a house that has a portico – **תיקו**
          - (i) *or*: one house inside of another – **תיקו**
      - 3 *challenge*: if father set aside a house and furniture – son only acquires furniture
        - (a) *answer*: that is where house held a storage space of the father
        - (b) *גידע*: even if he only had a dove-cote there, he holds on to the rights of ownership
        - (c) *דב יהודה ור"פ*: even if he only had a vessel holding his fish
          - (i) *Story*: **מר זוטרא** married off his son and hung up a shoe to maintain ownership of the house
          - (ii) *Story*: **ר' אשי** did the same – putting up an oil cruse
      - 4 *Summary*: **מר זוטרא** points out 3 laws which **רבנן** formulated without giving the logic behind them:
        - (a) *Our rule*: if a father marries off his son in the house, house goes to son
        - (b) *Assigning estate to wife*: means that he has made her an executrix
        - (c) *מעמד שלשתן*: if a lender directs his debtor to pay a third party – if all 3 are present, **קנה**

II **דו**: *משנה ד'*: income and expenses before division of estate

- a *If*: one brother was taken to work for king – his wages go to the estate
  - i *Associated* **ברייתא**: if a brother was appointed to a civic position
    - 1 *If*: it was due to the brothers (his membership in the family) – wages go to common fund
      - (a) *Even if*: he was sharper than the others
    - 2 *But if*: it was due to him – he keeps wages
  - ii *Associated* **ברייתא**: if a brother takes money out of fund to study or marry, brothers can tell him that if he stays in house, they will feed him; else, he may be denied funds for **מזונות**
    - 1 *Reason*: as per **ר' הונא** – the blessing in the house is dependent on the number of its residents
      - (a) *Therefore*: they do send him food as per what he would have expended were he there
- b *But if*: one got sick and expended funds to get better – that comes from his own account
  - i *Limitation*: only if he got sick by negligence (as per v. 1) – else, it comes from the fund