

22.9.14

155a (והלכתא כר"נ אמר שמואל בכולהו) → 156a (איתמר קטן אימתי מוכר בנכסי אביו)

.7 וְעָמְדוּ שְׁנֵי הָאֲנָשִׁים אֲשֶׁר לָהֶם הָרֵיב לִפְנֵי ה' לִפְנֵי הַכֹּהֲנִים וְהַשֹּׁפְטִים אֲשֶׁר יְהִיוּ בְּיָמֵם הֵהָם: דברים פרק יט פסוק יז

- I נחמן at what age a son may sell some of the estate
- a **דבא** 18
- b **ד' הונא בר רב חיננא** 20
- i *Challenge (זירא)*: from story in ב"ב (above) where family claimed he had been a קטן at time of sale
- ii *Explanation*: if we accept 18 as the limit, we understand how סימנים would help determine majority
- iii *But if*: we entertain 20 as a limit, סימנים won't help:
- 1 *משנה*: נדה ה:ט - if someone is 20 and hasn't developed סימנים, let the relatives of the אלמנה prove he is a eunuch and that will exempt her from חליצה
 - 2 *Response*: רב commented on that משנה - only if he has סריס (supported by wording – והא סריס –)
 - 3 *Comment*: if he hasn't brought סריס, how long do we wait to accord him status of סריס
 - (a) *Answer (ר' חייא)*: until he is 35 (a majority of his years)
 - (b) *And*: if someone like that was brought to ר' חייא, if skinny, he would tell them to fatten him up; if fat, he would tell them to get him thinner
 - (i) *Reason*: sometimes it is one or the other weight extremes that causes apparent סריסות
- c *Question*: is the year itself considered after or before (i.e. is the 18th year considered post- or pre-consent)?
- i **דבא בשם ר"נ** considered pre-consent
- 1 *Note*: this position wasn't explicated but (erroneously) inferred:
 - (a) *Case*: רבא invalidated a sale of estate made by son who was 18
 - (i) *Real reason*: רבא determined that he was incompetent (he was freeing slaves)
 - ii **דבה בר ר' שילא בשם ר"נ** considered post-consent
 - iii *Question sent to דבא* if a girl who is 14 understands commerce, is her sale valid?
 - 1 *Response*: valid
 - 2 *Note*: reason he asked about a girl and about 14 – that's what the case was
 - 3 *Note*: this position of רבא's was inferred from a case:
 - (a) *Case*: young man sold property; his relatives tried to prove that he was a שוטה and had him spit seeds on רבא's property; the buyers then coached him to ask a bright question of רבא, who then reversed the ruling and validated the sale; when he was notified that he had been coached, he still accepted it, since, if the seller could understand the coaching well enough, that indicates שכל
- d **ד' הונא בריה דר"י** he may, even before this age, testify about commerce
- i **מר זוטרא** only applies to מטלטלין, not קרקע
- 1 *Challenge (ר' אשי)*: why distinguish? If ability to sell → ability to testify, then little kids should be able to testify as per משנה in גיטין that פטוטות can sell מטלטלין
 - (a) *Block*: their inability to testify stems from v. 1
- e **אמימר**: their gifts are valid (even before the age)
- i *Challenge (ר' אשי)*: if their sale is invalid because they may undervalue estate – ק"ו a gift (where they get 0)
 - ii *Retort*: if so, if he sells at a profit, should be valid
 - iii *Rather*: reason the rabbis invalidated his sale is that a child wants ready cash and may liquidate entire estate
 - 1 *But*: in the case of מתנה, we understand that the recipient helped the heirs, they'll continue helping, knowing that the heirs can give them gifts
- II שתי שערות) ר' list of procedures for which we check to see if the youth is of age (שתי שערות)
- a **קטן** קידושין וגירושין: even though we checked for קידושין, have to mention גירושין for case of קטן
- b **חליצה**: *contra* opinion of ר' יוסי who doesn't require the woman to be of age
- c **מיאונין**: *contra* opinion of ר' יהודה who allows her to "walk out" until a later stage of puberty
- d But for selling his father's estate – 20; *contra* opinion that 18 is old enough
- i *Final rulings*: within the year is pre-consent
- 1 *And*: we rule like **גידל בר מנשה** – if the child understands commerce – even younger – sale valid
 - 2 *And*: we rule like **מר זוטרא** – that this only applies to מטלטלין
 - 3 *And*: we rule like **אמימר** - that he may give gifts at an earlier age
 - 4 *And*: we accept ר' list of procedures for which we check for שערות