

22.9.15

156a (משנה ז) → 157a (ק"ו לגדול)

- I קנין שכ"מ to effect a dispute regarding ability of ר"א/חכמים משנה ז
- a ר"א: all must follow regular guidelines for קנינין (קרקע – חזקה – שטר, כסף, מטלטלין; משיכה – מטלטלין; חזקה – קרקע)
- b חכמים: מתנת שכ"מ works, as per story of the mother of בני ריכל who gifted brooch to her daughter
- i Response (ר"א): her brothers were wicked, therefore חכמים allowed this gift (to diminish from their estate)
- 1 Note: they maintained thorns in a vineyard; according to ר"א, this is a violation of כלאים
- (a) חכמים: only if one maintains things that are deliberately grown (not wild growth) is it כלאים
- (b) ר"א: thorns are grown in the Arabian peninsula, for their camels
- ii ר"א told חכמים about story of man in ים- who wanted to gift מטלטלין to his sons (who were absent)
- 1 So: he acquired some land and gifted it using קנין אגב
- 2 Response: he wasn't a שכ"מ
- c Final ruling (ר' לוי): we may take the orders of a שכ"מ even on שבת (rejecting ר"א) – reason, he may not have time to formulate a proper קנין
- II זכיייה לגדול dispute regarding מתנת שכ"מ on weekday; parallel dispute regarding משנה ז
- a מתנת שכ"מ:
- i ר"א: his oral declaration only valid on שבת, since we can't write
- ii ר' יהושע: if it's valid on שבת, how much more so that it's valid on a weekday
- b זכיייה לגדול
- i ר"א: we can only make a קנין on behalf of a קטן, since he can't do so for himself
- ii ר' יהושע: we can do so for a קטן, how much more so that we can do so for an adult
- c Note: this is all יהודה's version of the dispute;
- i But: ר"א's version is inverted:
- 1 מתנת שכ"מ
- (a) ר"א: we can only take the declaration of a שכ"מ on a weekday, since it could be written
- (b) ר' יהושע: how much more so we can do so on שבת
- 2 זכיייה
- (a) ר"א: we can only do so for an adult
- (b) ר' יהושע: how much more so that we can do so for a minor