

OVERVIEW of the Daf

1) Someone taken out to be executed (cont.)

According to the second version of R' Yosef's teaching the Mishnah's ruling regarding one who is taken out to be executed applies to a non-Jewish court but if he was taken out by a Jewish court he is assumed to be dead.

An unsuccessful challenge is presented.

Two proofs are suggested and rejected.

2) **MISHNAH:** The Mishnah discusses when the agent, delivering a גט written in Eretz Yisroel is permitted to give the גט to someone else to complete the delivery of the גט.

3) Clarifying the Mishnah

R' Kahana emphasizes that the messenger may give the גט to someone else only if he becomes ill.

The Gemara suggests and rejects three possible circumstances when the Mishnah's ruling will apply.

The Gemara explains how all three explanations could be used to explain the Mishnah.

A contradiction between our Mishnah and an inference from another Mishnah is noted.

Abaye and Rava offer varying resolutions to the contradiction.

The practical difference between these two explanations is presented.

4) "Take for me such-and-such an object"

In the case where the husband appoints an agent to deliver a גט to his wife and to retrieve an object from her, Reish Lakish reports that Rebbi taught in the context of this Mishnah that a borrower may not lend that object and a renter may not rent that object.

R' Yochanan asserted that the novelty of the Mishnah is that sometimes the גט is also invalid.

The Gemara identifies the exact point of dispute between Reish Lakish and R' Yochanan.

5) **MISHNAH:** The Mishnah presents the procedure for passing a גט to another when it is brought from out of Eretz Yisroel.

6) An agent appointing an agent

Two versions of a conversation between the rabbis and Avimi the son of R' Avahu are recorded. The essence of their conversation related an agent appointing another agent and whether that second appointment must be done in the presence of Bais Din.

Rabbah rules that in Eretz Yisroel agents may appoint oth-

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Distinctive INSIGHT

Where the husband stipulates that an item must be retrieved
 ואם אמר לו טול לי הימנה חפץ פלוני לא ישלחנו ביד אחר, שאין רצונו
 שיהא פקדונו ביד אחר

The Mishnah presents a case where a husband appoints an agent to deliver a גט to his wife, and he stipulates that the messenger should retrieve a particular item from the woman at the time of delivery. If the agent cannot complete the mission himself, the Mishnah rules that he cannot delegate his role to a second person. The Mishnah explains that the reason for this is that the husband does not want someone handling his items without being authorized to do so. The Rishonim discuss the issue which is relevant to this law.

Rambam explains that even if the husband does not stipulate that he wants the item retrieved before the גט be released (i.e., he mentioned instructions of giving the גט before he said that the item be retrieved), the first agent should still not appoint anyone else to do his job if he cannot continue. The reason is that the very mentioning of bringing back the item indicates that the husband insists that the item's being brought back is essential for him. Therefore, it is understood that the item must be secured before the presenting of the גט in all cases. Tosafos (עמוד ב' ד"ה) explains that the husband was very insistent to have the messenger retrieve the object from the woman before he would be authorized to release the גט to her. Therefore, the husband does not want the mission to be assigned to anyone else, out of concern that the second messenger might not do as per the specific instructions of the husband. Therefore, once the גט is given to a second messenger, the גט is automatically disqualified, even בדיעבד, and even if the second agent does exactly as the husband instructed. The very handing of the גט from the first agent to anyone else constitutes a violation of the will of the husband.

This, however, is only because the husband voiced a concern about retrieving the item. Where the husband simply sends an agent with a גט without any such stipulation, the agent may, even לכתחילה, appoint a replacement agent to complete the mission. ■

REVIEW and Remember

- Under what conditions is a גט messenger permitted to give the גט to another person to delivery?

- Explain the principle מילי לא מימסרן לשליח

- Is a court-appointed messenger required to declare that a גט was written and signed in his presence?

- Does the concern that the husband may have appeased his wife (פייס) apply for all gittin that are delivered?

HALACHAH Highlight

Is one who borrows a sefer responsible for אונסים?
 אין השואל רשאי להשאיל

A borrower may not lend [the object he borrowed]

Ran¹ writes that in a case when Shimon borrows a sefer from Reuven and gives Reuven another sefer as collateral (משכון) he (Shimon) is not responsible if an אונס happens to the borrowed sefer since Reuven, the lender, performed a mitzvah when he lent the sefer and benefitted from the fact that he is exempt from giving tzedaka while he is performing a mitzvah (פרוטה) (דרי יוסף). Nesivos Hamishpat² questions the application of the principle of פרוטה דרי יוסף for two reasons. First of all, the exemption applies only while the mitzvah is performed. Once the mitzvah is completed one no longer qualifies for the exemption. The mitzvah here is fulfilled at the time that Reuven loans the sefer but once the Shimon has possession of the sefer Reuven is no longer performing a mitzvah, thus his benefit and exemption cease. Furthermore, Reuven is the one who is providing himself with the benefit, rather than Shimon, since he is fulfilling a mitzvah by loaning his own object. See Nesivos who offers an explanation for Ran's ruling.

Nesivos cites Ketzos Hachoshen who suggests that Shimon, the borrower, is exempt because he is not truly benefitting from the sefer that he borrowed. There is a principle that mitzvos are not intended for benefit (מצוות לאו ליהנות ניתנו), therefore, the benefit Shimon has from borrowing the sefer does not make him into a "borrower - שואל" and thus he is not responsible if an

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er agents to deliver a גט.

R' Ashi asserts that that if the first agent dies all the subsequent agents lose their authorization.

Mar bar R' Ashi explains that this was his father's ruling when he was younger but he subsequently changed his position and ruled that the גט is not dependent upon the life of the first agent.

A related incident is recorded.

A second incident is presented that involves Rava.

Rava's ruling in this incident is challenged but it later emerged that the case involved an arusah and the challenge vanished. ■

אונס happens to the sefer. Nesivos rejects this approach for a number of reasons. One reason is that Taz³ writes that the principle that mitzvos were not intended for benefit does not apply to the mitzvah of Torah study, thus Shimon is benefitting from the sefer and becomes a שואל. Another reason Nesivos rejects the approach of Ketzos is that the borrower has the ability to rent the sefer to another and thus benefit financially from the sefer. Even though our Gemara teaches that a borrower is not permitted to lend or rent out the borrowed object, nonetheless, if the sefer is not removed from the house or the borrower rents it to one of the members of his household it is permitted for the borrower to rent out the sefer. Since the borrower can benefit financially from the sefer he is a "borrower" and is responsible for the sefer even if there is an אונס. ■

1. שו"ת הר"ן סי' י"ט ומובא דבריו בסמ"ע סי' ע"ב ס"ק כ"א.

2. נה"מ שם ס"ק י"ז.

3. ט"ז יו"ד סי' רכ"א ס"ק מ"ג. ■

STORIES Off the Daf

The Conditional Divorce

"רבי יוחנן פוסל בו..."

A certain man became very ill. He was married but had no children and his brother's whereabouts were unknown. Understandably, his wife requested a גט. When the husband consulted with his doctor he was told that if he lived until Rosh Hashanah he would likely be out of danger. The husband didn't wish for any unpleasantness for his wife in case of the worst, but he also didn't want to divorce her if he survived. After much thought he hit upon a simple solution: he would give the divorce with the added stipulation that if he survived until Rosh Hashanah the divorce would not take effect. He appointed a sofer

to write the divorce, two witnesses to sign it, and a messenger to inform his wife of his stipulation and give her the divorce.

Unfortunately, the messenger completely forgot the husband's condition. He collected the divorce from the sofer and brought it to the location of the frightened woman after explaining that he was the husband's agent. A few minutes later, the messenger ran back in and exclaimed, "I forgot to tell you— your husband made a stipulation: If he dies before Rosh Hashanah you are divorced; if he survives until Rosh Hashanah the divorce will not take effect!"

Shortly thereafter, the husband died.

When the Rav of the town was consulted regarding this he didn't know what to say. "I can think of two reasons why this would be good. He did tell her the stipulation afterwards and it didn't make a differ-

ence anyway since he died almost immediately but I cannot take responsibility to rule leniently here..."

They consulted the Maharik, ז"ל. Did this woman need chalitzah from her late husband's brother or not?

"Yes," he replied. "On Gittin 29 Rav Yochanan invalidates a get if the agent deviated from the exact wording of the husband's instructions. Even if the husband ordered the agent to take an object from the wife and then give the divorce, and the agent first gave the divorce and only after took the object, it is invalid. The halacha follows Rav Yochanan.

"Here too, the moment the agent deviated from instructions he lost his status as an agent and the divorce is invalid. I am very sorry for the poor agunah, but what can I do?"¹ ■

¹מהרי"ק, שורש כ"ז

