

OVERVIEW of the Daf

1) Defining "a little" (cont.)

R' Abba offers another explanation of the term "a little."
 R' Bibi presents a related inquiry that remains unresolved.

2) A dignified manner

Ulla offers two explanations for the Mishnah's reference to eating in a "dignified" manner.

3) A husband's use of his wife's מלוג property

R' Yehudah issued a ruling that denied a husband collection of his investment in his wife's field since he derived minimum benefit from that field.

It is noted that this is consistent with another ruling of R' Yehudah.

R' Yaakov in the name of R' Chisda rules that a husband who invests in the field of his wife who is a minor always receives compensation.

An incident related to a husband receiving reimbursement for his investment in his wife's property is presented.

R' Assi makes a vague statement qualifying the Mishnah's ruling of the husband who takes an oath in order to recover his expenses.

Abaye suggests one explanation of R' Assi's statement.

Rava rejects that interpretation and offers an alternative explanation.

4) Sharecroppers

The Gemara inquires about the status of sharecroppers brought into the field by the husband. Did they enter the field with him, and thus if he does not receive compensation for improving the land neither do they, or perhaps they came for the land, and they will be compensated even if the hus-

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REVIEW and Remember

1. How did Chazal ensure that a husband would invest in the property of his wife who is a minor?

2. Do sharecroppers work for the husband or the land?

3. What are the two reasons why a husband may not sel his wife's מלוג property for its produce?

4. What is the Gemara's uncertainty about who is responsible to bury a yevama?

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 Mr. and Mrs. Paul Pinkus
 In loving memory of their mother
 מרת טוביב שרה בת הרב טובי גוטמאן, ע"ה

Distinctive INSIGHT

Who is responsible to bury a שומרת יבם?

יורשי הבעל קברי לה דקא ירתי כתובתה

The Gemara presents a query regarding burial of a שומרת יבם—a yevama who dies while awaiting to be either married for yibum or to be dismissed with chalitzah. One possibility is that the heirs of her first husband should take responsibility of burying her. Rashi explains the uncertainty here is due to the fact that there are two families who stand to inherit her, and the obligation of burial is a function of the right of inheritance. The ר"ה notes that while a woman is married, her husband is obligated to bury her because he is the one who stands to inherit her dowry. Now that the yevama died without a husband, those who stand to inherit her property assume this task. The question is simply which family is the principal heir.

Shitta Mikubetzes notes that according to Rashi, the question of the Gemara only presents itself when there are, in fact, two parties which stand to inherit this woman. This is where there are נכסי מלוג which belonged to the woman and will be taken by her heirs. However, if there are no properties which were exclusively owned by her, and the only ones to inherit anything are the heirs of the husband (the brother who died), it is clearly the responsibility of the previous husband and his family to bury her.

Shitta Mikubetzes points out that the words of the Gemara as it formulates its query are quite precise. On the one hand, it is the heirs of the previous husband who must bury her, "because they inherit her kesubah," referring to the נכסי צאן ברזל and her kesubah. On the other hand, it is the heirs of the woman who are responsible to bury the שומרת יבם, as they stand to inherit the property "which comes and goes with her," referring to the נכסי מלוג.

The truth is that there is a question whether or not the yavam inherits the נכסי צאן ברזל of the yevama. Tosafos (ד"ה) asks that Rashi explained earlier (ד"ה וכתובה) that these properties go to the heirs of the woman, as does the dowry, but the yavam inherits only the main kesubah. Accordingly, what is the reason the heirs of the husband should be the ones to bury her? Tosafos answers that the woman actually should have received her kesubah with the death of the first husband. The fact that the kesubah itself shifts to the yavam is a form of his inheriting צאן ברזל. Tosafos concludes by noting that according to this explanation, the question of the Gemara would also be applicable in a case where the woman became a yevama during the אירוסין, for here, too, the woman brings a kesubah with her from the first brother to the yavam. ■

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HALACHAH Highlight

The status of a discount

יורשי הבעל קברי לה דקא ירתי כתובתה

Do the heirs of the husband bury her since they inherit her kesubah

Reuven, a storeowner, rented his store to Shimon at a rate of two-hundred and eighty rubles per year. After some time Shimon performed a favor for Reuven and as an expression of appreciation Reuven discounted the rent and only charged two-hundred and seventy rubles per year. At the end of three years Reuven entered into an agreement to rent the store to Levi for three years. Levi wanted to pay two-hundred and seventy rubles per year which was the amount Shimon paid, but Reuven insisted that the rate should be two-hundred and eighty rubles per year since that was the rate he charged Shimon. Levi responded, "I'll pay you what Shimon paid," and with that statement the deal was finalized. At the end of the year Levi paid two-hundred and seventy rubles since that was the amount that Shimon paid, but Reuven responded that the rate was two-hundred and eighty rubles and the reason Shimon paid less was a favor for him.

Rav Shalom Mordechai Schwadron¹, the Maharsham, ruled in favor of Reuven. The rationale is that the discount Reuven gave Shimon has no bearing on the rate of the rent since it was done in exchange for the favor Shimon did for Reuven. Therefore it is considered as if Shimon paid the entire two-hundred and eighty rubles and Reuven returned ten rubles to Shimon, which obviously has no bearing on the rate for renting the property. Proof to this is found in Tosafos where he writes that since the yevama could have collected some of her kesubah and she doesn't, we look at it as if she collected the money and then gave it to the yavam. Maharsham proceeds to express uncertainty that perhaps Levi intended to pay only what Shimon paid rather than what he was charged. Since this matter is dependant upon the way people will understand the statement, "I'll pay you what Shimon paid,"

band is not.

The premise of the inquiry is unsuccessfully challenged.

R' Huna that son of R' Yehoshua provides guidelines that answer the inquiry.

5) A husband's use of his wife's מלוג property (cont.)

The Gemara inquires whether a husband can sell his rights to his wife's מלוג property.

Yehudah bar Meraimar and R' Pappa, in the name of Rava, cite opposing rulings to this inquiry.

R' Pappa asserts that Yehudah bar Meraimar's citation is not accurate.

The Gemara rules that a husband is not authorized to sell his rights to his wife's מלוג property.

Abaye and Rava offer different explanations for this ruling.

Three practical differences between these two explanations are presented.

6) **MISHNAH:** The Mishnah discusses what happens to the property inherited by a yevama and whether the yavam may sell the property he inherited from his deceased brother for doing yibum. The Mishnah concludes by addressing the issue of what happens to the property after yibum is performed.

7) Burying a yevama

The Gemara inquires who has the responsibility to bury a yevama who dies.

R' Amram begins to answer the question. ■

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the burden of proof will be on Reuven to prove that he deserves an additional ten rubles. Nonetheless, for the remaining two years of the lease Reuven is allowed to demand two-hundred and eighty rubles with the ultimatum that if Levi will not pay the full amount the lease will be cancelled. ■

1. שו"ת מהרש"ם ח"ג סי' כ"ה.

2. תוס' ד"ה יורשי ע"ש כל הענין. ■

STORIES Off the Daf

Who Owns the House?

"אמרין שמה תכסיף"

There was a married woman who had sole ownership in a house in Israel. She decided to make the house into property of tzedakah. Subsequently, she added her husband's name to the deed of ownership on the house. He decided to sell the house. A few years after the sale, the husband passed away. Several years later, the wife also passed away.

The man who had purchased the

house asked Rav Naftali Nussbaum, Av Beis Din of the Ahavas Shalom Beis Din, several questions. Had he been allowed to live in the house for the duration that the husband lived? Was he even permitted to dwell in the house as long as the wife had lived? What would be the halacha about continuing to live in the house?

The Rav replied, "First of all, clearly the right to live in a house is a form of קנין פירות, which is the right of the husband. The charity therefore cannot take possession of the house as long as the two are married, since the husband has a lien on it. However, in Kesuvos 80b we find that the husband cannot sell the פירות to

another.

"The moment the wife allowed the husband's name to appear on the deed of this house, he obtained full rights to the house, פירות, and the husband had the right to sell this to another. So when the husband sold the house, he had every right to sell the right to live there for at least as long as the wife lives. Even if the husband outlives the wife, it would appear as though he can also live in the house. However, since the time they both passed away, you either owe back rent to the charity or else you must purchase the property from the charity. If not, you transgress the prohibition of Me'ilah!" ■

