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Gittin Daf 77

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Daf Notes is currently being dedicated to the neshamot of

**Moshe Raphael ben Yehoshua (Morris Stadtmauer) o”h**

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May the studying of the Daf Notes be a zechus for their neshamot and may their souls find peace in Gan Eden and be bound up in the Bond of life

### Conditions

The *Mishna* had stated: If he said, “If I do not come back within twelve months, you should write and give a *get* to my wife,” but they wrote the *get* within the twelve months and gave it after the twelve months, the *get* is not valid. If he said, “Write and give a *get* to my wife if I do not return within twelve months,” if they wrote it within the twelve months and gave it after the twelve, it is not a valid *get*. Rabbi Yosi, however, said: A *get* like this is valid.

Rav Yeimar said to Rav Ashi: May we conclude from this that Rabbi Yosi holds that if one writes a *get* subject to a certain condition, even if the condition is not fulfilled, the document is a valid one (*and he would therefore hold that the get is valid even in the first case*)?

The *Gemora* answers: No; Rabbi Yosi would still hold that a *get* is not valid if the condition is not fulfilled, and Rabbi Yosi has a special reason in the latter case of the *Mishna*, because he should have said the following: “If I do not come back within twelve months, you should write and give a *get* to my wife.” Since he said: “Write and give a *get* to my wife if I do not return within twelve months,” we presume that he meant to say, “Write the *get* from now, but only deliver it if I do not come back within twelve months.” The Rabbis, however, do not differentiate between the two cases (*and the get will*

*not be valid, for it was written within the twelve months*). (77a)

### Vague Time Periods

The *Gemora* cites a *braisa*: If he says, “Here is your *get* if I do not come back after this *shemita* cycle,” we wait an extra year (*after shemita, because the year after shemita is still referred to as “after shemita”*). If he said, “Here is your *get* if I do not come back after this year,” we wait an extra month (*after the year is over, because the month after this year is still referred to as “after this year”*). If he said, “Here is your *get* if I do not come back after this month,” we wait an extra week.

The *Gemora* inquires: If he says, “Here is your *get* if I do not come back after this week,” what do we do?

When Rabbi Zeira was once sitting before Rav Assi, or, as others reported it, when Rav Assi was sitting before Rabbi Yochanan, he said: The first day of the week, the second and the third are called “after the *Shabbos*”; the fourth, fifth and sixth day of the week are called “before the *Shabbos*.”

The *Gemora* cites a *braisa*: Rebbe said that if he said, “after the Holiday,” we wait an extra thirty days. Rabbi Chiya went out and taught this *halachah* in the name of Rebbe, and they praised it (*for stating it in the name of an individual*). He then went and taught it in the name

of many, and they did not praise it (for they decided that this is not the correct *halachah*, and therefore, it was obviously not said by the majority). The *Gemora* concludes: Evidently, the *halachah* is not in accordance with Rebbe. (77a)

WE SHALL RETURN TO YOU, MI SHEACHAZO

### **Mishna**

If one throws a *get* to his wife (*and it lands in her house or courtyard*), and she is in her house, or in her courtyard, then she is divorced. If he threw it to her in his house, or in his courtyard, even if the *get* is with her in the bed, she is not divorced. If he threw the *get* into her lap or into her basket, then she is divorced. (77a)

### **Anywhere in their Domain**

The *Gemora* asks: From where do we know this (*that the get is valid if it lands in her domain, and it is not placed in her hand*)?

The *Gemora* cites a *braisa*: It is written: *And he places it in her hand*. This would imply that the *get* is valid only if it is placed into her hand. How do we know that the *get* would be valid if it was placed in her roof, her courtyard or into her enclosure? Since the Torah wrote: (*he places it in her hand (and not: in her hand places it)*), we learn that the *get* is valid anywhere (*as long as it is in her domain*).

The *Gemora* cites a similar *braisa* regarding a thief: It is written: *If the stolen object is found in his hand (he shall pay double)*. This would imply that he would pay double only if it is found in his hand. How do we know that he would be required to pay double if he stole it with his roof, his courtyard or his enclosure? Since the Torah

wrote: *being found it will be found*, we learn that he pays double no matter how it was found to be stolen (*even if it wasn't through his hand*).

The *Gemora* explains why it was necessary to teach the same *halachah* in both places: For if we would have learned this only regarding *get*, I might have said that the reason is because she can be divorced against her will (*and that would explain why placing it in her courtyard would be sufficient*), but this would not apply to a thief, who cannot be liable for a theft committed against his will. And if we would have learned this *halachah* only in regard to the thief, I might have said that it applied to him only because the Torah imposed a fine upon him, but it would not apply to a *get*. It was therefore necessary to teach us this *halachah* in both contexts. (77a)

### **Acquiring her Get**

The *Gemora* asks: How can she acquire the *get* when it is placed in her courtyard? Didn't we learn that whatever the wife acquires belongs to her husband?

Rabbi Elozar answers: The *Mishna* is referring to a case where the husband wrote to her, "I have no claim or rights to your property at all."

The *Gemora* asks: Even if he wrote that, what of it? We learned in a *braisa*: If one says to his fellow (*a partner in the field*): "I have no claim or rights regarding this field," or he says: "I have no business with it," or he says: "My hand is removed from it," it is considered as if he said nothing (*since he is not stating that he is giving his share to his partner*)!?

In the Beis Medrash of Rabbi Yannai, they answered: The *Mishna* is referring to a case where he wrote this

to her when she was still an *arusah* (*the marriage was not consummated yet*), and it is following the opinion of Rav Kahana. For Rav Kahana said: Regarding an inheritance that comes to a person from an outside source (*one that is not from Biblical law*), a person may stipulate beforehand that he will not inherit it (*and therefore the husband is able to declare before the nisuin that he does not want the rights to his wife's property*). And it is also in accordance with Rava's opinion. For Rava said: If a person says, "I do not want to avail myself of a Rabbinic enactment (*which was made for his benefit*), such as this one," we listen to him.

The *Gemora* asks: What did Rava mean when he said, "such as this one"?

The *Gemora* answers: He is referring to that which Rav Huna said in the name of Rav. For Rav Huna said in the name of Rav: A woman is permitted to say to her husband, "I do not want to be supported by you, and I will not give you my earnings." (*She works and keeps the earnings to herself.*)

Rava answers: Doesn't her hand also belong to her husband (*and yet she can be divorced if he placed the get in her hand*)? Rather, it must be that her *get* and her hand become hers simultaneously. So too, her *get* and her courtyard become hers simultaneously.

Ravina asked Rav Ashi: Can Rava have found any difficulty regarding the woman's hand? Granted that the husband owns the earnings that come about through her hands, does he own the hand itself?

He replied: Rava's difficulty was really with the hand of a slave. For according to the opinion who holds that a slave may acquire his freedom by means of a document

which he receives himself, we may ask: How can this be, seeing that the hand of the slave is like that of the master? Rather, it must be that his deed of emancipation and his hand become his simultaneously. So too, here, her *get* and her courtyard become hers simultaneously.

A certain deathly ill man wrote a *get* for his wife on Friday afternoon towards nighttime and did not have time to give it to her before *Shabbos*. On the next day, his condition became critical. Rava was consulted (*for the man was childless, and he did not want his wife to fall for yibum; being that the get was muktzah, he wanted to know if he could still divorce her*), and he said: Go and tell him to transfer over to her the place where the *get* is resting, and let her go and close and open the door there and by doing so, she will take formal possession of it (*and by obtaining possession of the room, she would automatically acquire the get as well, on the principle that movable property may be acquired along with immovable property*), as we have learned in a *Mishna*: If one locked the door, or fenced or broke open (*the fence of a field*), this constitutes an act of possession.

Rav Ilish asked Rava: But whatever a woman acquires belongs to her husband? [*So how could she acquire the get in this manner?*]

Rava was embarrassed. Eventually, it was revealed that she was only an *arusah*. Thereupon Rava said: Granted that this rule is true for a married woman (*that whatever she acquires, her husband acquires*), but does it apply to an *arusah* as well? Later, Rava corrected himself and said: No matter whether she is a *nesuah* or an *arusah*, her *get* and her courtyard become hers simultaneously.

The *Gemora* asks: Didn't Rava say this already (*in order to explain the Mishna*)?

The *Gemora* answers: When he did say it first, it was in connection with this incident. (77a – 77b)

### **Her Courtyard**

The *Mishna* had stated: If one throws a *get* to his wife (*and it lands in her house or courtyard*), and she is in her house, or in her courtyard, then she is divorced.

Ulla said: That is so, provided that she is standing by the side of her house or by the side of her courtyard.

Rabbi Oshaya said: She may even be in Tiberias and her courtyard in Tzippori, or she may be in Tzippori and her courtyard in Tiberias; she is still divorced.

The *Gemora* asks: But the *Mishna* states: and she is in her house, or in her courtyard?

The *Gemora* answers: It means that she is as if she is in her own house or in her own courtyard on account of the fact that the courtyard is being guarded for her (*it is protected from intruders*), and therefore she is divorced.

Let us say that the point at issue between them is this: Ulla holds that acquiring through a courtyard is derived from "her hand" (*and therefore she has to be next to the courtyard, similar to her hand*) and Rabbi Oshaya holds that is derived from the concept of agency (*and therefore it is not necessary for her to be present at the time that the get is placed there, for the courtyard is serving as her agent*)!

The *Gemora* rejects this analogy: Both agree that a courtyard is derived from "her hand." Ulla, however, interprets the analogy as follows: Just as her hand is close to her, so too, her courtyard must be close to her. Rabbi Oshaya will say: Since her hand is attached to her, must her courtyard also be attached to her? Rather, it is comparable to her hand in this sense. Just as her hand is guarded for her, so too, her courtyard must be guarded for her, and what we would exclude therefore is a courtyard which is not guarded for her (*but she does not have to be present when her courtyard acquires something for her*).

A certain man threw a *get* to his wife as she was standing in a courtyard and it went and fell on a block of wood. Rav Yosef thereupon said: We have to see: If the block was four *amos* by four, it forms a separate domain (*and she will not be divorced*), but if not, it is the same domain as the courtyard.

The *Gemora* asks: What case are we dealing with? Are we to say that the courtyard is hers? If so, what does it matter if the block is four *amos* by four (*since the block is hers, she should be divorced*)? And if the courtyard is his, then, if it is not four by four, what does it matter (*why is the get valid*)?

The *Gemora* answers: His ruling applies to a case where it his courtyard and he lends her a place in it to accept the *get*. She will not be divorced if the block is four by four, since men will usually lend one place but not two places (*and the block is not the place that he lent to her; if it is not four by four, then it is regarded as part of the place that he lent her*). (77b)

## DAILY MASHAL

### *Torah is our "Betrothed"*

Our Mishna and Gemora discuss the laws of a husband relinquishing his right to his wife's property. The stipulation can be valid – depending upon the precise expression he used. In some cases, he retains the right, and if she dies, he inherits her.

The Gemora in Pesachim (49b) refers to the Torah as Israel's "betrothed." (This is based upon the similarity between "morashah" (inheritance) and "me'orasa" (betrothed). Israel is bound to the Torah. It is not only our possession; it is our spouse -- in a bond truly symbolic of our relationship with Hashem. And as many of us know all too well, one cannot "stay the same" in a marriage. If the relationship is being developed and enhanced, it is growing. If not, it is deteriorating -- and the couple will slowly drift apart. And this too is the manner in which we relate to the Torah. It is not a free gift, to be used at our discretion -- if we personally find it inspiring. It is an obligation every bit as much as marriage. We either grow together and become one, or we fall apart.

### QUESTIONS AND ANSWERS FROM YESTERDAY'S DAF

to refresh your memory

Q: Why does Rabbi Meir hold that a condition must be doubled in order to be valid?

A: He derives this from the condition mentioned in the Torah regarding the Tribes of Gad and Reuven.

Q: If a man said to his wife in the presence of two witnesses, "Here is your *get* on the condition that you

serve my father for two years" (*but he did not yet give her the get*), and he later said to her in the presence of two witnesses, "Here is your *get* on the condition that you give me two hundred *zuz*," which condition must be met in order for the *get* to be valid, and why?

A: The second statement does not nullify the first (*for he did not cancel the first condition, and he also did not specify that he is adding this condition upon the other*), and she has the option of either serving his father or giving the husband the two hundred *zuz*.

Q: If a man says to his wife, "Here is your *get* if I do not come back within twelve months," and he died within the twelve months, what is the *halachah*?

A: The *Mishna* ruled that the *get* is not valid, but the Rabbis allowed her to marry again because they hold like Rabbi Yosi who said that the date of the document indicates that the divorce is valid retroactively.