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Gittin Daf 86

Produced by Rabbi Avrohom Adler, Kollel Boker Beachwood

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

### ***Text for the Sale of a Slave***

Rav Yehudah decreed that the following text should be used for the sale of a slave. “Our slave (*that we are dealing with*) is clearly a slave; he is totally separate from freedom and from any problem or complaint from the king and queen (*not wanted for a crime of capital punishment*). Nobody else has put his sign (*of ownership*) on this slave (*currently, besides for the seller*). He is free from any blemish and from any boils for the last two years, both old and new.”

The *Gemora* asks: What is the remedy for these boils?

Abaye answers: Ginger, the residue from silver (*when it is mined from the ground*), tar, wine vinegar, olive oil, and white naphtha. Apply the mixture with a feather of a goose. (86a)

### ***Mishna***

There are three types of *gittin* that are invalid. However, if the woman already remarried and had children after receiving it, the child is legitimate (*not a mamzer*). If he wrote the *Get* in his own handwriting without witnesses; if there are witnesses but no date; or, if there is a date and only one witness; in all of these cases, the *Get* is invalid. However, if she remarried (*based upon this Get*) the child is legitimate. Rabbi Elozar says: Even if there are no witnesses signed on

the *Get*, but he gave it before two witnesses, the *get* is valid. She can also use the *Get* to collect from property with a lien on it, as witnesses are only supposed to sign on a *Get* (*according to Rabbi Elozar*) to benefit the public. (86a)

### ***Are There Other Cases?***

The *Gemora* asks: Are there no more cases like these listed in the *Mishna*? What about the case of an old *Get* (*see 79b*)?

The *Gemora* answers: In the case of an old *Get*, she does not have to leave her new husband, while in these cases, she does.

The *Gemora* asks: This is understandable according to the opinion here that she indeed must leave her new husband. However, according to the opinion here that she is not required to leave her new husband, why is an old *Get* different than those listed here?

The *Gemora* answers: There, she can initially remarry, while here, her marriage is only permitted after the fact.

The *Gemora* asks: What about the case of a bald *Get* (*see 81b*)?



The *Gemora* answers: In that case, the child is indeed a *mamzer*, while in these cases, he is not.

The *Gemora* asks: This is understandable according to Rabbi Meir (*who holds the child is a mamzer*). However, what is the reason according to the *Chachamim*?

The *Gemora* answers: In that case she must leave her husband, while here, she does not have to.

The *Gemora* asks: This is understandable according to the opinion here that she does not have to leave her new husband. However, according to the opinion here that she is required to leave her new husband, why is an old *Get* different than those listed here?

The *Gemora* answers: The *Mishna* was not discussing tied *gittin*.

The *Gemora* asks: What about a *Get* that was not written for the correct kingdom (*see 79b*)?

The *Gemora* answers: In that case she must leave her husband, while here, she does not have to.

The *Gemora* asks: This is understandable according to the opinion here that she does not have to leave her new husband. However, according to the opinion here that she is required to leave her new husband, why is an old *Get* different than those listed here?

The *Gemora* answers: The *Mishna* there is according to Rabbi Meir, and there the child is a *mamzer*, while here, the child is legitimate.

The *Gemora* asks: When the *Gemora* made a point of stating that there are three of these cases both in the

beginning of the *Mishna* and at the end, what was it excluding?

The *Gemora* answers: Saying specifically “three” in the beginning of the *Mishna* excludes the cases that were brought up in the *Gemora*. The mention of “three” at the end of the *Mishna* excludes the following case: The *braisa* states: If someone brought a *Get* from overseas and they gave it to the woman without saying, “It was written and signed before me,” the woman must leave her new husband and the resulting child is a *mamzer*. This is the opinion of Rabbi Meir. The *Chachamim* say: The child is not a *mamzer*. What should he do? He should take the *Get* back from her, and give it to her in front of two people while saying, “It was written and signed before me.” (86a)

### ***His Handwriting***

The *Mishna* had stated: If he wrote the *Get* in his own handwriting without witnesses, the *Get* is invalid.

Rav said: We learned, “His handwriting.” What was Rav discussing when he said this? If he was talking about the first part of our *Mishna*, this is obvious, as this is what it says! He must be talking about the middle case. However, this can also not be, as there are witnesses in this case (*and therefore it doesn't matter who wrote it*)! He therefore must be discussing the last case, where the date is written, but there is only one witness. He is teaching that only because it is his handwriting and there is one witness is the child valid. However, the law is inapplicable if the *Get* is written in the handwriting of a scribe. Shmuel argues that even in this case the child would be legitimate, as the *Mishna* (87a) says that this case is valid.

The *Gemora* asks: How does Rav answer this point?

Rav answers: The *Mishna* there teaches us that she may initially remarry (*as the scribe signed with the witness*). Our case, the *get* is only valid after the fact.

The *Gemora* asks: How does Shmuel understand the case of the *Mishna* (*as he obviously understands the scribe did not sign with the witness*)?

The *Gemora* answers: Shmuel understands that the case of the *Mishna* (87a) is regarding a known scribe, who would not have written the *Get* unless the husband instructed him to do so. Our case is when the scribe is not such an expert (*but even so the child is legitimate*).

Rabbi Yochanan made a similar statement to that made by Rav. Rabbi Elozar asked him: Aren't there witnesses (*he thought he was discussing the middle case of the Mishna*)! Rabbi Yochanan answered: I am talking about the last case. (86a – 86b)

### ***She is Required to Leave***

Sometimes Rav would say about the cases in our *Mishna* that the woman is obligated to leave her husband, but sometimes he would say that she is not. How could this be? If she already had children from the second marriage, she is not required to leave. If she didn't, she should leave.

Mar Zutra asked a question from a *Mishna* (*in Yevamos 30b*). The *Mishna* states: All of these (*who potentially fall to yibum*) that had a doubtful *kiddushin* or *Get*, they submit to *chalitzah* and not *yibum*. What is a doubtful *kiddushin*? If a man threw to her a *kiddushin* (*money or a document*), and it was uncertain if it was close to her or to him. What is a doubtful *Get*? If he wrote the *Get*

in his own handwriting without witnesses; if there are witnesses but no date; or, if there is a date and only one witness; in all of these cases, the *Get* is doubtful. If you say that she does is not required to leave her husband if she has children, he co-wife will end up doing *yibum*! [*By the fact that we allow the ervah to remain with her second husband, this will prove to people that the get from the brother was a valid one; accordingly, her co-wife was not a co-wife of an ervah, and she will marry the yavam! This, however, would be forbidden, and because of this, we should decree that the divorcee should be required to leave her husband even if she has children from him!?*]

The *Gemora* answers: Let her do *yibum* and there is no problem, as this (*the prohibition for her to marry the yavam*) is only a Rabbinical suspicion.

Levi says: She does not have to leave her husband (*in the cases of our Mishna, even if they did not have children*). This is also the opinion of Rabbi Yochanan. Rabbi Yochanan also said this to the sons of Rabbi Chalafta from Huna: Your father said, "She never has to leave." He also said that a *kartzis* in sheaths of grain that falls into water used for the red heifer does not make the water unfit. What is a *kartzis*? Abaye said: It is a big fly that is found in sheaths of grain.

Rav Daniel, the son of Rav Katina, asked from a *braisa*: All birds make the water of the red heifer unfit besides for a pigeon, because it sips. If a *kartzis* does not make the water unfit, it should say "besides for a pigeon and a *kartzis*!"

The *Gemora* answers: It is not such a clear rule, as while a large *kartzis* does not disqualify it, a small *kartzis* does. What is the size of a small one? Rabbi Yirmiyah,

and some say Rabbi Ami, says: A small one is until the size of an olive. (86b)

### **Ruling**

The *Mishna* had stated: Rabbi Elozar says: Even if there are no witnesses signed on the *Get*, but he gave it before two witnesses, the *get* is valid. She can also use the *Get* to collect from property with a lien on it, as witnesses are only supposed to sign on a *Get* (*according to Rabbi Elozar*) to benefit the public.

Rav Yehudah says in the name of Rav: The law follows Rabbi Elozar concerning *gittin*. When I said this before Shmuel, Shmuel said: It also follows his opinion in cases of documents.

The *Gemora* asks: Does Rav hold that it does not follow Rabbi Elozar regarding documents? Doesn't Rabbi Elozar also say a law that one can collect using the *Get* from property with a lien?

The *Gemora* answers: While Rabbi Elozar agrees that this ruling is valid regarding *gittin*, he argues that the law does not follow Rabbi Elozar's carrying the law over to documents as well.

Rabbi Yaakov bar Idi said in the name of Rabbi Yehoshua ben Levi: The law follows Rabbi Elozar in *gittin*. Rabbi Yanai said: There is not even a scent of a *Get*.

The *Gemora* asks: Does this mean that Rabbi Yanai argues on Rabbi Elozar?

The *Gemora* answers: He means that according to the *Chachamim* who argue on Rabbi Elozar, there is not even a scent of a *Get* from this *Get*.

Rabbi Yosi the son of Rabbi Chanina similarly said in the name of Rish Lakish: The law follows Rabbi Elozar regarding *gittin*. Rabbi Yochanan said: There is not even a scent of a *Get*.

The *Gemora* asks: Does this mean that Rabbi Yochanan argues on Rabbi Elozar?

The *Gemora* answers: He means that according to the *Chachamim* who argue on Rabbi Elozar, there is not even a scent of a *Get* from this *Get*.

Rabbi Aba bar Zavda sent to Mari bar Mar: Ask Rav Huna if the law follows Rabbi Elozar regarding *gittin*. In the meantime, Rav Huna died. Rabbah, his son, said that his father used to say in the name of Rava that the law indeed followed Rabbi Elozar regarding *gittin*. Our Rabbinical experts in *halachah* said this as well, in the name of Rav. This was stated explicitly by Rav Chama bar Gurya in the name of Rav. Some say that they said that our friends who are experts in *halachah* and are students of Rav say in his name that the law follows Rabbi Elozar regarding *gittin*. When Rabin came from *Eretz Yisroel*, he said this in the name of Rabbi Elozar in the name of Rav. (86b)

### **Mishna**

If two people sent two similar *gittin* (*with the same names*) to be given, and they got mixed up on the way, both *gittin* should be given to both women. Therefore, if one of the *gittin* was lost, the second is also ineffective. If five people wrote a general *Get* and the *Get* specified that "So-and-so is divorcing So-and-so, and So-and-so is divorcing So-and-so, etc." and the witnesses are signed underneath, the *Get* is valid and it should be given to each woman. If the body of the *Get*



was written for each separately and the witnesses signed underneath, the *Get* of whoever has witnesses that are read with the *Get* is valid (*will be explained in the Gemora*). (86b)

### **Who is the Author?**

The *Gemora* asks: Who is the author of this *Mishna*?

Rabbi Yirmiyah answers: This is not Rabbi Elozar. Being that Rabbi Elozar holds that witnesses of the giving of the *Get* cause it to be valid, this *Get* cannot be valid. This is because there are too many *gittin* happening in one document for the witnesses to know who the giving of the document to the messenger is for, and the giving must be *lishmah*.

Abaye says: This is incorrect. Although Rabbi Elozar holds that the writing of the *Get* must be done *lishmah*, he does not necessarily hold that the giving of the *Get* must be done *lishmah*.

## **DAILY MASHAL**

One of the followers of R' Aharon of Karlin complained constantly that his wife demeaned him and made his life miserable. Finally, when he appeared to have reached his "limit," the Rebbe gave him a brachah. When he arrived home, all was well – no nagging or criticizing. The man was overjoyed. However, the next day, a wagon-driver started yelling at him on the street, and the next day, a strange woman accused him of bad behavior. When he came to Karlin next, the Rebbe asked him: "Wasn't it better to get all your Bizyonos at home, in private?"

### **QUESTIONS AND ANSWERS FROM YESTERDAY'S DAF** to refresh your memory

Q: What is the *halachah* if the husband divorces his wife and says, "You are permitted to everyone besides the *kiddushin* of a minor" and why?

A: It is invalid because a minor is considered someone with whom it is possible to eventually have *kiddushin*, and therefore he is still retaining rights to her.

Q: Why has the master not said anything when he said to his slavewoman, "You are free to marry any man you wish"?

A: Because she is still mortgaged to her master with respect of work.

Q: Why should we instruct the scribe to write "*v'dein*" with a *yud*?

A: For otherwise, it would seem that he is divorcing her only if he is required to by law.