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Kiddushin Daf 16

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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

Acquisition through Documents

The *Gemora* asks: How do we know that a Jewish servant and maidservant can be acquired through a document?

Ula answers: The verse states, “*If he will take another (woman).*” We compare the maidservant to the other woman (*a wife*). Just as she is acquired (*kiddushin*) through a document, so too, the maidservant can be acquired through a document.

The *Gemora* asks: This is understandable according to the opinion that states that this document is written by the master (*as it is similar to a kiddushin document written by the husband*). However, according to the opinion that the father writes it, how can we derive this from *kiddushin*? This argument was taught as a dispute between Rav Huna, who says that the master writes the document, and Rav Chisda, who says that the father writes the document. Therefore, this is difficult according to the opinion of Rav Chisda.

Rav Acha bar Yaakov answers: The source is the verse, “*She should not be set free like the freeing of slaves.*” This teaches that while she does not depart like a regular slave, she is acquired like a regular slave. What acquisition is this teaching us? The acquisition is through a document.

The *Gemora* asks: Why don’t we say it is the acquisition through “*chazakah*” -- “*propriety action (by making the slave work for him)?*”

The *Gemora* answers: The verse states, “*And you will bequeath them to your sons after you.*” This implies that only they (*Canaanite slaves*) are acquired with “*chazakah*,” not Jewish servants.

The *Gemora* asks: Why don’t we say that the verse teaches that only “*they*” (*from the word “them” in the verse above*) are acquired through documents, not Jewish servants?

The *Gemora* answers: We already derived that Jewish servants are freed through documents from the verse, “*She should not go out as other slaves.*”

The *Gemora* asks: What makes us understand the verses in this manner? Perhaps it is exactly the opposite!?

The *Gemora* answers: It is understandable that it (*the manner of acquiring the servant*) should be referring to a document, as this (*a Get document*) frees a Jewish woman from marriage (*and therefore it is more powerful than chazakah*).

The *Gemora* asks: On the contrary, let us say that it refers to *chazakah*, as *chazakah* acquires the property of a dead convert!

The *Gemora* answers: However, we do not find that *chazakah* acquires with anything that has to do with marriage (*and a Jewish maidservant’s marriage to the*

master is encouraged; and it is the acquisition which allows the master to marry her). Alternatively, this is why the verse of "If another," helps (to teach that the acquisition that works by her is a document, not *chazakah*).

The *Gemora* asks: What does Rav Huna derive from the verse, "She should not go out like the going out of the slaves?"

The *Gemora* answers: This is required to teach that she does not go out if her master cuts off one of her limbs (as is the law by a Canaanite slave).

Rav Chisda understands that this is understood from the verse, "She should not go out like the (regular) freeing of slaves." It could have merely said, "like slaves." "The freeing of slaves," teaches us this lesson as well. (16a)

Ways to Go Free

The *Gemora* asks: How do we know that a Jewish servant goes free after six years?

The *Gemora* answers: The verse states, "He will work for six years and on the seventh he will go free from you."

The *Gemora* asks: How do we know he is set free on *Yovel*?

The *Gemora* answers: The verse states, "Until the year of *Yovel* he will work with you."

Chizkiyah states: The verse states, "And she will be redeemed." This implies that he reduces the amount for her redemption (by deducting the price for the years which she already worked) and she goes free.

The *Mishna* had stated: And he acquires himself with money, its equivalent, or a document.

The *Gemora* asks: Money is understandable, as the verse states, "From the money of his purchase" (and it is referring to the acquisition of servants). Its equivalent is also understood from the verse, "He will repay his redemption," implying (from the extra word "repay") that the equivalent of money is like money. What is the case of documents? If it is that the servant writes a document saying that he owes the master the value of the redemption; isn't that essentially a monetary transaction? If it is that the master gives him a document of emancipation, let him just say in front of two people, "Go!" Or let him say before a *Beis Din*, "Go!" Why is a document necessary?

The *Gemora* answers: This teaches us that a Jewish servant is also owned in body by his master. [This is why a document is needed.] And therefore if a master merely relents on the money owed him by the servant, he has not lawfully relented. (16a)

Father's Death Sets her Free

Rish Lakish states: The maidservant acquires herself from the master's domain if her father dies through a *kal vachomer*. If signs of maturity, that do not take her out of father's domain, remove her from her master's domain, then the death of her father that takes her out of her father's domain should certainly take her out of her master's domain!

Rav Hoshaya asks: The *Mishna* says that a Jewish maidservant has another way of being set free (that a Jewish male servant does not have), as she can acquire herself through signs of maturity. If the death of the father is also a way, why didn't the *Mishna* list it along with signs of maturity?



The *Gemora* answers: The *Mishna* left more examples out of the *Mishna*. This is indicated by the fact that the death of the master is also not listed in the *Mishna*.

The *Gemora* asks: The fact that the death of the master is not mentioned is not proof, as this is also true regarding a male servant! Accordingly, why didn't it say the death of the father?

The *Gemora* answers: It only spoke about things that are clearly set (such as six years or *Yovel*), not things that have no clear ending.

The *Gemora* asks: Signs of maturity also do not have a set time, yet those are stated in the *Mishna*!

Rav Safra answers: While it is true that they have no upper limit (anytime she produces two pubic hairs after she is twelve years old, she is regarded as a *naarah*), they do have a lower limit when they are not considered true signs of maturity. This is as we learned in a *braisa*: If a boy is nine years old and he shows two (pubic) hairs, they are regarded as a mole (not signs of maturity). If they appear from when he is nine years and one day until twelve and one day, and they are with him at this later age, it is also regarded as a mole. Rabbi Yehudah says: This is a sign of maturity. If they are with him when he is thirteen and one day, everyone agrees that they are a sign of maturity.

Rav Sheishes asked: Rabbi Shimon says that there are four types of servants that receive gifts (from their master when they go free), three of which apply to men and three of which apply to women. It cannot be said that all four apply to one gender, for a man does not go out with signs of maturity, and a woman cannot become a *nirtza*. Rav Sheishes asks: If it is true that a woman goes out if her father dies, why isn't this also stated? If you will say it was left out, the *braisa* says explicitly four, implying only four! If you will say that the *braisa* only mentioned things that have a clear end, signs of physical maturity are mentioned

and they have no clear end! If you will give the answer that at least they have a lower limit, like Rav Safra stated, this is also not a valid answer, as the death of the master is one of the ways referred to in this *braisa*!?

The *Gemora* answers: In fact, the death of the master is not one of the ways mentioned in the *braisa*. What are the four? They are: years, *Yovel*, *Yovel* for a *nirtza*, and signs of maturity of a Jewish maidservant. This is logical (that the master's death is not one of the four), as when the *braisa* states, "for a man does not go out with signs of maturity, and a woman cannot become a *nirtza*," why can't four apply to a woman (for she does go free when the master dies)? It must be that the death of the master is not counted.

Rav Amram asked from a *braisa*. The *braisa* states: One who goes out with years, *Yovel*, death of a master, and signs of physical maturity of a maidservant receives gifts. Why, then, doesn't it also say the death of her father?

The *Gemora* answers: The *braisa* left it out.

The *Gemora* asks: How can this be? Doesn't it say "these?" [This implies "only these."] If you will say that the *braisa* only stated things that have a clear end, the *braisa* does include signs of maturity! If you will say that this is because of the reasoning of Rav Safra, this cannot be as the death of the master is included! This is indeed a refutation on Rish Lakish!

The *Gemora* asks: But didn't Rish Lakish have a *kal vachomer* backing up his law?

The *Gemora* answers: It was a highly questionable *kal vachomer*. The obvious question is that signs of maturity are a physical change of her body, while the death of her father does not physically change her body.

The *Gemora* cites two *braisos*: One *braisa* states: The servant keeps his gifts, and a maidservant keeps her gifts. Another *braisa* states: The gifts of a maidservant, and any lost objects she finds, go to her father. Her master only receives wages of idle work for the time she was not working (*when she found the lost object*). [*The two braisos contradict each other!?*]

It must be that the latter *braisa* is referring to a case where she goes out with signs of maturity (*and her father is still alive*), while the first case is discussing when she goes out because her father died (*which would be like Rish Lakish*)!

The *Gemora* answers: No, both cases are referring to when she has signs of maturity. The latter *braisa* is referring to a case when her father is alive, and the former is discussing a case when her father is not alive.

The *Gemora* says: It is understandable that the gifts of a maidservant had to be stated that it goes to her, as it must exclude going to her brothers. This is derived from the verse, “*And you will bequeath them to your sons after you,*” implying that (*the Canaanite slaves*) are bequeathed to your sons and not to your daughters. This proves that a man does not bequeath to his sons the rights he has in his daughter. However, why does it have to say that a servant keeps his gifts? Isn’t it obvious?

Rav Yosef says: This was a lengthy “*Yud*” (*meaning that the Tanna said words for no apparent reason*).

Abaye says that Rav Sheishes said: This follows the opinion of Tutai. The *braisa* states: Tutai says, “*to him*” teaches that the money (*of the gifts*) does not go to his creditors.

A *braisa* (*mostly*) quoted earlier stated: One who goes out with years, *Yovel*, death of a master, and signs of physical maturity of a maidservant receives gifts. However,

someone who runs away or is redeemed by lessening the amount owed does not receive gifts. Rabbi Meir says: One who runs away does not receive gifts, but one who is redeemed does receive gifts. Rabbi Shimon says that there are four types of servants that receive gifts, three of which apply to men and three of which apply to women. It cannot be said that all four apply to one gender, for a man does not go out with signs of maturity, and a woman cannot become a *nirtza*.

The *Gemora* cites the Scriptural sources for these *halachos*. (16a – 16b)

INSIGHTS TO THE DAF

Tell him in front of witnesses, “Go away!”

Proper Verbal Texts for Relinquishing Monetary Demands

In many compromise agreements the moment eventually arrives when the two parties declare that from that point onward they don’t and won’t have any claims against one another. Such a declaration is made to prevent the renewal of the disagreement and to draw it to a complete close. However, sometimes one of the sides later decides to renew his claims. The following discussion considers whether a verbal declaration has the halachic power to preclude any renewed claims.

Verbal *mechilah*: Our Daf discusses the means through which an *eved Ivri* [Jewish slave] can be freed. If the *eved Ivri* had only belonged to his *adon* [master] monetarily, it would have been sufficient for the master to say to his *eved Ivri* before two witnesses, “Go away,” making a *shtar shichrur* [a written document freeing the slave] unnecessary. Through his verbal declaration the *adon* indicates he is *mochel* [relinquishes] the monetary *shiabud* [subjugation] of the slave, thus freeing him (if there had been no *shiabud* of his body). The *Ran* uses this



to prove that verbal mechilah is also considered complete and uncontested.

HaShem Yerachem, I won't make any claims against you: Although verbal mechilah is also considered complete mechilah, not every sentence in which a person relinquishes his claims is considered mechilah. For example, a merchant once told a fellow merchant, "It would be better if you accept my view, but if not, HaShem yerachem, I will not sue you in beis din." The Alshich ruled (Responsa Alshich §80) that the merchant could file claims against the other merchant since a mechilah could not be inferred from his words.

Mechilah when angry: Even in cases where a person is explicitly mochel, the poskim disagree about the effectiveness of a mechilah said during a dispute or while angry. Since the mechilah was said without giving the matter due consideration, perhaps it should not be seen as a full mechilah (see Remo Choshen Mishpat 333:8).

No need to be mochel the debt itself: Besides the fact that verbal mechilah is considered mechilah, the Maharit proves (Even HaEzer II §20) that there is no need to mochel the debt itself. It is sufficient to say, "I have no claims against you." This is apparent from our sugya, which reveals that if the adon tells his eved Ivri, "Go away," the slave would have been free if his body had not been subjugated as well. Although the master did not explicitly indicate that he is mochel the shi'bud, such a statement is still considered a mechilah.

DAILY MASHAL

SINGING AFTER THE EGYPTIANS DIED

The Gemora cites a *braisa* that a servant who runs away is required to complete the remainder of his six-year term.

The Chanukas Hatorah asks the following question in Parshas Beshalach: Why did Bnei Yisroel not break out in song immediately upon leaving Egypt? Why did they wait until after the splitting of the Sea?

He answers: The *halachah* is that if a servant runs away before his term expires, he is required to complete it. However, the *halachah* is that if the master dies, he is not obligated to finish his servitude.

We know that the Jewish people left Egypt prior to the four-hundred years that they were destined to remain there. Accordingly, they would have been required to complete this term at some later date. However, once the Egyptians died, they were completely freed. This is why they waited to sing until after they saw that the Egyptians died.