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Bava Basra Daf 49

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Daf Notes is currently being dedicated to the neshamot of

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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

### **Written on Trust**

Rav Nachman had stated: If witnesses said, “Our words were regarding a matter of trust,” they are not believed. If they said, “Our words were attended by declaration (*of protest; the witnesses say that the seller protested that he was forced to sell and did not recognize the sale, and that they signed the deed in cognizance of the protest*), they are also not believed.

Mar, the son of Rav Ashi said: If witnesses said, “Our words were regarding a matter of trust,” they are not believed. If, however, they said, “Our words were attended by declaration,” they are believed, for the following reason: This one (*the document that has the declaration of protest*) was allowed to be written, whereas that one (*the deed of trust*) was not allowed to be written. (49a)

### **Husband’s Chazakah**

The *Mishna* had stated: A man cannot establish a *chazakah* in the property of his wife.

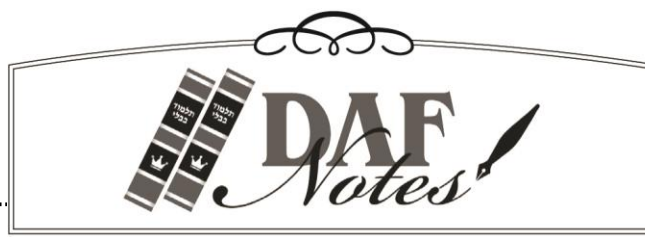
The *Gemora* asks: Is this not obvious? Since he is entitled to eat the produce in her land, he is merely eating the produce (*but he is not displaying ownership at all!*)?

The *Gemora* answers: The *Mishna* is referring to a case where he wrote to her, “I have no claim or rights to your property and its produce.”

The *Gemora* asks: Why is there any validity to what he writes? Did we not learn in a *braisa* that 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 said: The *Mishna* is referring to a case where he wrote it to her while she was still an *arusah* (*and therefore, it has validity since the husband does not own the property yet*), and it would be in accordance with that which Rav Kahana said. For Rav Kahana said: A man may stipulate in advance that he does not wish to inherit an inheritance that will come to him through marriage.

This can be proven from Rava’s statement, 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”? 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.*)

The *Gemora* notes: By the fact that the *Mishna* taught us that the husband cannot establish a *chazakah* in the property of his wife, we may infer that if he brings a proof (*witnesses or a contract that his wife sold him the property*), it would be effective. But we learned in a *Mishna*: If one purchased a field from a man and then purchased (*the lien*) from his wife (*in order that she should not collect her kesuvah from this field*), his purchase is void, for we may assume that she only consented to please her husband. If so, the same logic should apply here, and we should say that perhaps she only sold it to him in order to please him!?

The *Gemora* answers that the *Mishna’s* rule is qualified by Rabbah bar Rav Huna, who limits this *Mishna* to three fields that are tied to the wife – a field that was written into her *kesuvah*, a field that is designated for her to collect her *kesuvah* from, and a field that she brought in to the marriage with an estimated value. [*However, regarding her sale of other fields, the sale is effective.*] (49a – 50a)

## DAILY MASHAL

### **Women First**

It is written [Shmos 19:3]: Moshe ascended to Hashem, and He to him from the mountain, saying,

“So shall you say to the house of Yaakov and tell the sons of Israel.” Rashi cites from Chazal: *So shall you say to the house of Yaakov*: These are the women. Say it to them in a gentle language. *And tell the sons of Israel*: These are the males.

The commentators ask: Why did Hashem speak to the women before He spoke to the men?

The *Beis Halevi* answers based upon our *Gemora*, which stated that if one purchased a field from a man and then purchased (*the lien*) from his wife (*in order that she should not collect her kesuvah from this field*), his purchase is void, for we may assume that she only consented to please her husband. Although she does not truly want to sell her rights, she agrees to sell it in order to please her husband. This is why it is the custom by acquisitions to acquire it from the wife and then her husband. This way, we can be certain that she truly intends to sell it.

Accordingly, this is what Hashem wanted at the time the Torah was given. He wanted to ensure that the women will reveal their intent that they are truly interested in accepting the Torah without any trace of coercion at all. That is why the women were asked before the men. This way, their answer was actually their own. They were not accepting the Torah based upon their husbands desires; it was purely their own decision.