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Bava Basra Daf 107

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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

Division is Nullified

It was stated: If brothers split an inheritance, and a creditor took one of their portions, Rav says that their division is nullified (*and they divide the remaining estate*). Shmuel says: The brother lost his portion. Rav Assi says: The brother whose possessions were seized should take a quarter of his brother’s land or one quarter of money. [*The other brother has the right to give one-quarter money or one-quarter land.*]

The *Gemora* explains: Rav says that the division is nullified, as brothers who split their father’s possessions are like inheritors (*who are both obligated to pay their father’s debt; once one brother’s share was taken away, it was as if he never received his share and the estate must be divided again*). Shmuel says that these brothers are like people who purchase from each other, and do so without responsibility for what happens to the other person’s portion. Rav Assi is unsure whether they are like inheritors or buyers, and therefore he says he takes one quarter of his brother’s share of land (*for money that lies in doubt must be divided, and since they might be purchasers, one brother might not owe the other brother anything*) or one quarter money (*because the other brother can claim, “If the creditor would have come to me, I would have pushed him off with money; just because you gave him land does not mean that I must give you land”*).

Rav Pappa said: The *halachah* in all these cases is that a

portion must be relinquished (*and given to the other brother; the division, however, is not voided*). Ameimar said: The division is nullified (*like Rav*). And the *halachah* is that the division is nullified. (107a)

Mistaken Appraisals

The *Gemora* cites a *braisa*: If three experts (*judges*) went down to appraise the estate of male orphans (*to be sold and the money used for their debts*) and one of them values the estate at a *maneh* (*one hundred zuz*) and two of them value it at two hundred *zuz*, or if one of them values it at two hundred *zuz* and two of them value it at a *maneh*, the viewpoint of the one, being in the minority, is nullified (*by the two, who are in the majority*).

The *braisa* continues: If one of them values the estate at a *maneh* (*one hundred zuz*), one values it at twenty *sela’im* (*eighty zuz*) and one values it at thirty *sela’im* (*one hundred and twenty zuz*), it is to be valued at a *maneh*. Rabbi Eliezer the son of Rabbi Tzadok said: It is to be valued at ninety *zuz*. Others said: The difference between them (*the highest appraiser and the lowest one*) is calculated and divided by three (*and that amount is added to the lowest one; this would equal ninety-three and a third zuz*).

The *Gemora* explains: He who said, “It is to be valued at a *maneh*,” follows the middle course (*which compromises between the other two opinions*). Rabbi Eliezer the son of Rabbi Tzadok, who said, “It is to be valued at ninety

zuz,” is of the opinion that the land is actually worth ninety *zuz*, and the reason why one valued it at twenty *sela'im* (eighty *zuz*) is because he had underestimated it by ten *zuz*, and he who valued it at a *maneh* overestimated it by ten *zuz*.

The *Gemora* asks: On the contrary! Why don't we assume that the land is worth a hundred and ten *zuz*, and that he who valued it at a *maneh* underestimated it by ten *zuz*, and he who valued it at thirty *sela'im* (one hundred and twenty *zuz*) overestimated it by ten *zuz*?

The *Gemora* answers: Adopt the appraisals of the first two, since both do not exceed the sum of one *maneh* (and it is worth at least that amount).

The “Others,” who said, “The difference between them (the highest appraiser and the lowest one) is calculated and divided by three (and that amount is added to the lowest one; this would equal ninety-three and a third *zuz*),” maintain that the land is actually worth ninety-three *zuz* and a third, and that he who valued it at twenty *sela'im* (eighty *zuz*) underestimated it by thirteen *zuz* and a third, and he who valued it at a *maneh* overestimated it by thirteen *zuz* and a third. And truthfully he should have given a higher evaluation (one hundred and six and two-thirds), but the reason he did not do that is because he thought the following: “It is enough that I have exceeded my friend's evaluation by so much.”

The *Gemora* asks: On the contrary! Why don't we assume that the land is worth a hundred and thirteen *zuz* and a third, and that he who valued it at a *maneh* underestimated it by thirteen *zuz* and a third, and he who valued it at thirty *sela'im* (one hundred and twenty *zuz*) overestimated it by thirteen *zuz* and a third, and truthfully he should have given a higher evaluation, but the reason he did not do that is because he thought the

following: “It is enough that I have exceeded my friend's evaluation by so much”?

The *Gemora* answers: Adopt the appraisals of the first two, since both do not exceed the sum of one *maneh* (and it is worth at least that amount).

Rav Huna said: The *halachah* follows the opinion of the “Others.” Rav Ashi asked: How can it be said that the *halachah* follows the “Others” if we do not even understand the reasoning behind their viewpoint?

The Diaspora Judges (*Shmuel and Karna*) taught: The difference between them (the highest appraiser and the lowest one) is calculated and divided by three (and that amount is added to the lowest one).

Rav Huna said: The *halachah* follows the opinion of the Diaspora Judges. Rav Ashi asked: How can it be said that the *halachah* follows the Diaspora Judges if we do not even understand the reasoning behind their viewpoint? (107a – 107b)

Mishna

If one says to his fellow, “I am selling you half of this field” (without specifying which half), based on the quality, we compromise between them (we determine which half is better and give the purchaser the inferior half, plus an area with which will now equal in value the other half).

If the seller says, “The southern half I am selling you,” based on the quality, we compromise between them, and he takes the half to the south.

The seller accepts the place (outside of the field being sold) for the fence, a wide ditch and a narrow ditch. And how large is the wide ditch? Six *tefachim*. And the narrow ditch? Three *tefachim*. (107b)



Half of the Field's Value

Rabbi Chiya bar Abba said in the name of Rabbi Yochanan: The purchaser takes the inferior half (*in value, and the seller keeps the other half*).

Rabbi Chiya bar Abba asked Rabbi Yochanan: But the *Mishna* said: Based on the quality, we compromise between them (*which would seemingly mean that they divide equally between them the superior half and the inferior one*)!?

Rabbi Yochanan replied: While you were occupied in eating dates in Bavel, I expounded this clause through the aid of the latter clause. For in the latter clause it is taught: If the seller says, "The southern half I am selling you," based on the quality, we compromise between them, and he takes the half to the south. But why should a compromise be made between them? Didn't he explicitly say to him, "The southern half I am selling you"? You must say that the expression there refers to a portion of the field equivalent in value to the price of the southern half. Here also, it must be assumed that the expression used refers to the half of the field's value. (107b)

Ditches Outside the Fence

The *Mishna* had stated: The seller accepts the place (*outside of the field being sold*) for the fence, a wide ditch and a narrow ditch.

The *Gemora* cites a *braisa*: The wider ditch is placed on the outside (*further away from the fence*) and the narrow one is placed on the inside (*outside the fence, but close to it*), and both of them are made behind the fence in order that an animal should not jump over the fence.

The *Gemora* asks: Why don't we just make the wide ditch, and there would be no need for the narrow one?

The *Gemora* answers: Since it is wide, an animal might stand in it and jump.

The *Gemora* asks: Then why don't we just make the narrow ditch, and there would be no need for the wide one?

The *Gemora* answers: Since it is narrow, the animal might stand on its outer edge and jump.

The *Gemora* notes: There must be a *tefach* between the two ditches. (107b – 108a)

WE SHALL RETURN TO YOU, BEIS KOR

INSIGHTS TO THE DAF

Collecting a Debt from the Brothers

It was stated: If brothers split an inheritance, and a creditor took one of their portions, Rav says that their division is nullified (*and they divide the remaining estate*). Shmuel says: The brother lost his portion. Rav Assi says: The brother whose possessions were seized should take a quarter of his brother's land or one quarter of money. [*The other brother has the right to give one-quarter money or one-quarter land.*]

Tosfos asks: What gives the creditor the right to collect his debt from only one of the brothers? Isn't the responsibility to repay the father's debt equally shared by both brothers? He should not be able to seize property that belongs to one, and not the other!?

Tosfos answers: We are referring to a case where the



father made this particular land into an *apotiki*. (A person may designate any type of property as security to the creditor without placing it in the possession of the creditor. The creditor has a lien on this property, and if the debt is not otherwise repaid, the creditor can collect his debt from the security. This security is called an *apotiki*.) It is this land that the creditor wishes to seize. Tosfos continues that it cannot be speaking that the father told the creditor, "You can collect from any other place," for if so, he would not be able to push off the creditor by paying him with money.

The Rosh (Bava Kamma 1:6) writes that the *halachah* which requires the creditor to collect equally from all the brothers is only if he is able to collect a complete field; but he is not required, however, to take half a field from one brother and half from another. The reason for this is because it is not a proper payment and lenders would refuse to lend money. Accordingly, the Pilpula Charifta writes that it is not necessary to interpret the *Gemora* to be referring to an *apotiki*. Rather, we can say that if the creditor would not collect the property of one brother, he would be compelled to take half a field from each brother. It is for this reason that he has the right to take the field from one of the brothers.

HALACHOS OF THE DAF

Dividing an Inheritance with an Unknown Brother

When a person dies, his inheritance is divided by his sons by means of a lottery. However, there are times when the sons must divide the inheritance a second time. Below are two scenarios.

Two brothers that divided an inheritance, and then along came a third brother whom they never knew existed, the *halachah* is that the entire dividing is void, and they split

the inheritance again; this time - including the third brother.

This is true even if the two brothers had inherited three fields, and had divided it between themselves, and each brother received a whole field and half of the third. Then the third brother made his appearance and his lot fell on the third field that was split. Even if the third brother is happy with this arrangement, any one of the brothers may void the entire dividing of the inheritance, and they must all draw lots again. Furthermore, even if the third brother is satisfied with the third field even without having to draw lots, any one of the brothers may void the splitting of the inheritance. The reason for all of this is, since originally, it was a mistaken division, the entire lottery can be voided.

Another scenario would be, if after dividing the inheritance, one of the fields got taken away by a person who lent their father money and now is collecting his debt. Here too, the division is voided, and they all once again draw lots to divide the inheritance.

DAILY MASHAL

Occasional harsh statements by our sages

Rabbi Yochanan upbraided his pupil Rabbi Chiya bar Aba about a question on our mishnah, telling him "While you were eating dates in Babylonia, we already explained it from its latter section." In other words, as Rashbam comments (s.v. *Ad'achalt*), while you were having a good time eating dates in Babylonia and neglecting your learning, we in Eretz Israel explained the mishnah so sufficiently as to remove all questions.

We sometimes find Amoraim expressing themselves in such teasing or provocative statements and we should

try to understand how they could behave so, considering they also insisted that “the words of the wise are heard in a still voice” and that “your fellow’s honor should be as dear to you as your own”. The *Chavos Yair* devotes a very long discussion to the topic (Responso, 152), in which he details the explanation of each such statement in the Talmud, and his dissertation is most important owing to its scope. In the preface to his major work, the Chafetz Chayim zt”l, details all the prohibitions included in slander, idle talk and verbal deceit and then addresses the subject of our sages’ provocative statements: “I have also heeded this topic and have therefore copied the explanation by the *Chavos Yair* at the end of my book.” Actually, the Chafetz Chayim abridged the explanation but, at any rate, those lacking the Responso *Chavos Yair* may avail themselves of the Chafetz Chayim’s version, being that his work is so popular.

The *Chavos Yair* first explains that the Torah scholars from Babylonia were not called *chovelim* (“despoilers”) just because they would frequently dance, shout or clap their hands and provoke one another. After offering a long elucidation, he explains each sharp Talmudic statement one by one, including our complaint about eating too many dates. In his commentary on the end of the first chapter of tractate „Orlah, Rabeinu Ovadyah Bartenuro clarifies that the term used in our *sugya*, *kafnayasa*, refers to unripe dates. Babylonia was famous for its dates and, in fact, the Gemara in Pesachim 88a declares that Hashem exiled the Jews to that region to enable them to eat an abundance of dates and freely learn Torah. Rabbi Yochanan implied, then, that just like no-one in Bavel eats unripe dates, Rabbi Chiya bar Aba should not eat his dates while still unripe i.e. he should not ask questions about the first part of the mishnah till he learns the latter part and, seeing the whole picture, his questions would be solved. (A member of our *beis midrash* remarked that the definition of *kafnayasa* as

unripe dates matches the text received by Rabeinu Chananel: *pagta* – “immature fruit”).

Raavad also expressed some sharp statements against Rambam’s opinions. A member of our *beis midrash* heard an explanation quoted by HaGaon Rav Y. Michel Feinstein in the name of HaGaon Rav Chayim of Brisk zt”l, that Raavad expressed himself in such a fashion when he thought that Rambam’s decisions were baseless. On the other hand, he very often refrains from such expressions, though disagreeing with Rambam. When, for example, he objects to Rambam’s approach to the topic of lotteries, he writes that “his statements have not been clarified” (*Hilchos Shecheinim*, 2:11). We see, then, that the sharpness of Raavad’s reactions simply reflects the degree of his objection to each individual ruling and that he never meant to ridicule other halachic authorities.