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Bava Basra Daf 112

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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

### ***Transferring Inheritance***

The *Gemora* had stated: The following *Tanna* (Rabbi *Yishmael*) derives this law (*that a husband inherits his wife*) from a different source. The *braisa* states: *And he inherits her*. This teaches us that a husband inherits his wife. These are the words of Rabbi Akiva. Rabbi *Yishmael* says: This teaching is unnecessary. The verse states: *And any daughter inheriting a legacy from the tribes of Bnei Yisroel to someone from a family* etc. This is discussing inheritance transferring to a different tribe due to a husband inheriting his wife (*and this is why there is a prohibition to marry a woman from a different tribe*). The verse continues: *And you should not transfer the inheritance of Bnei Yisroel from tribe to tribe*. It also says: *An inheritance should not be transferred from one tribe to another*. The verse also says: *And Elozar the son of Aharon died, and they buried him on the hill of Pinchas, his son*. How did Pinchas have a hill if Elozar himself did not have his own portion (*as they were Kohanim*)? Rather, it must be that Pinchas married a woman who died, and he then inherited this land from her. Another verse states: *And Seguv gave birth to Yair, and he owned twenty-three cities in the Land of Gilead*. Now, how could Yair own cities that did not belong to his father Seguv? Rather, it must be that Yair married a woman who died, and he then inherited this land from her.

The *Gemora* asks: What is the purpose of so many verses?

The *Gemora* answers: Perhaps one might say that Scripture is only concerned for a transfer through her son (*when she marries a man from a different tribe and begets a son and*

*then dies*), but a husband would not inherit his wife; proof was brought from the verse: *And you should not transfer the inheritance of Bnei Yisroel from tribe to tribe*. And in case one might say that its (*the second verse*) purpose is to teach that one would transgress both a prohibition and a positive commandment (*by transferring the inheritance to another tribe*); proof was brought from the verse: *An inheritance should not be transferred from one tribe to another (and therefore we see that a husband inherits his wife)*. And in case one might say that its (*the third verse*) purpose is to teach that one would transgress two prohibitions and a positive commandment (*by transferring the inheritance to another tribe*); proof was brought from the verse: *And Elozar the son of Aharon died, etc (and therefore we see that a husband inherits his wife)*. And in case one might say that it was Elozar who took a wife who died, and Pinchas inherited from her (*and the other verses were referring to a daughter inheriting from her mother*); proof was brought from the verse: *And Seguv gave birth to Yair, etc. (and therefore we see that a husband inherits his wife)*. And in case one might say that there also, the same thing may have happened (*and it was not the husband who inherited the wife*); we can ask: If so, why are two Scriptural verses necessary (*to show that a son inherits his mother*).

Rav Pappa asked Abaye: How can it be proven from there that a husband inherits his wife? Is it not possible to maintain that a husband, in fact, does not inherit his wife, and as to those Scriptural verses (*the first three*), they may speak of a transfer through the son (*when a daughter inherited property, married a man from a different tribe; when she dies, her son will be her heir, and her inheritance*



will have transferred from one tribe to another)? And the verses discussing Yair and Pinchas might not be referring to an inheritance at all, for perhaps Yair bought those cities, and Pinchas bought that hill (and the purpose of the verses is merely to demonstrate their wealth)!?

Abaye responded: It cannot be said that Pinchas had bought the land, for, if so, it would follow that the field must be returned by Yovel, and it would emerge that the righteous man (Elozar ben Aharon) would be buried in a grave which was not his own.

But, Rav Pappa asks, perhaps it fell to him as a field consecrated by a *cherem-vow* (which are divided amongst the Kohanim)!? [The Rashbam understands that this question is unresolved here, and the Gemora moves on to a different discussion.]

Abaye asks: After all (that we had said above regarding a daughter with no brothers whose father was from one tribe and mother from a different tribe and they dies and she inherited them; we ruled that she should only marry a man from the same tribe), the inheritance would anyway be transferred from the tribe of the mother to the tribe of the father (for her husband or her son will inherit her)!?

The Gemora answers: But why should you ask like that? Perhaps that case is different because the inheritance had already been transferred (when she inherited her mother)!

Abaye responded: The argument that “the inheritance had already been transferred” we do not say. [The Gemora will explain this below.]

Rav Yeimar asked Rav Ashi: If we use the argument that “the inheritance had already been transferred,” it is well (for then if she marries a man from the same tribe as her father, the property is remaining in the same tribe); but if, however, we do not use the argument that “the inheritance had

already been transferred,” then the mother’s inheritance will be transferred when the daughter gets married to a man from her father’s tribe? [This is according to the Rashbam’s text; not Tosfos.]

The Gemora answers: She may be given in marriage to a man whose father is of the tribe of her father, and his mother is of the tribe of her mother. [In this manner, the estate will remain exactly as it was by the daughter; so perhaps, this is what would be required!?

The Gemora proves from the verse that this cannot be the case, for if so, the verse should read as follows: *to someone from a family of the tribes of her father and mother*.

The Gemora answers that the torah could not have written it like that, for then we might have thought that the opposite (if his father would be from the tribe of her mother, and his mother would be the tribe of her father) would be sufficient as well. It was written in this manner to teach otherwise (and the verse may still mean that she must marry someone precisely like her). (111b – 112b)

## INSIGHTS TO THE DAF

### “His Plot”

Rav Pappa asked Abaye: How can it be proven from there that a husband inherits his wife? Is it not possible to maintain that a husband, in fact, does not inherit his wife, and as to those Scriptural verses (the first three), they may speak of a transfer through the son (when a daughter inherited property, married a man from a different tribe; when she dies, her son will be her heir, and her inheritance will have transferred from one tribe to another)? And the verses discussing Yair and Pinchas might not be referring to an inheritance at all, for perhaps Yair bought those cities, and Pinchas bought that hill (and the purpose of the verses is merely to demonstrate their wealth)!?



Abaye responded: It cannot be said that Pinchas had bought the land, for, if so, it would follow that the field must be returned by *Yovel*, and it would emerge that the righteous man (*Elozar ben Aharon*) would be buried in a grave which was not his own.

The *Nimukei Yosef* writes that our *Gemora* teaches us that it is a lack of dignity for the deceased to be buried in a grave site owned by another.

The Chasam Sofer (*Responsa Yoreh Deah* 330) citing our *Gemora* as its source says that the prevalent custom is that everyone pays for his own grave. Even a poor person, who lacks the means to pay full price, nevertheless should pay something, even at a considerably reduced price - for his own burial plot.

He writes that there was an incident where the *Chevra Kadisha* was charging an enormous amount of money for a burial plot, so much so, that it made the price which Avraham paid *Ephron Hachiti* seem miniscule. He proves from there and from our *Gemora* that it is of extreme importance that the burial plots should belong to the deceased in order that it satisfies being "his plot."

"Al haDaf" quotes the *Dover Meisharim* (*Responsa*, Vol. 1:4) who asks that even if we say that Pinchas inherited the property from his wife, how would we refer to this as "his plot" in reference to Elozar?

He answers that Pinchas had an available solution, for he could have given land as a present to his father (*he cites Responsa Rashba that there is a possibility of acquisition for a dead person*) and this is according to Rabbi Meir (*Bechoros* 52b) who rules that a gift does not return by *Yovel*.

He also offers another novel interpretation that "his plot" really means the son's plot - a plot that the son bought or inherited, and there is actually no need to gift it to the father who has died.

They add that the example that the Chasam Sofer cites, regarding Sarah, would prove either hypothesis. Either Avraham gifted the plot to Sarah after her death, or the requirement of "his plot" here would refer to Avraham, and since he was her husband that would suffice.

## DAILY MASHAL

### Fear of Heaven

Nine months before his demise, HaGaon Rav Shlomo Heiman zt"l needed to undergo a critical operation. Worrying he might not survive it, he summoned his pupils and asked them to take care of some money hidden in his library which had belonged to Rabbi David Rapaport, author of *Mikdash David*. Rabbi Rapaport and his wife were slain in the Holocaust and had no living children but no one knew who died first – he or his wife. If he died first, his wife inherited his estate and upon her demise, her relatives. If she died first, Rabbi David's relatives inherited the estate upon his demise. Rabbi Heiman asked his pupils to ask HaGaon Rav Aharon Kotler to decide to whom to give the funds but he eventually lived nine months after the operation and personally saw to the affair.