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Bava Basra Daf 135

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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

[Once] a certain [man] was dying. Being asked to whom his wife [was permitted to be married and] he replied to them, “She is suitable for the Kohen Gadol.” [In considering this case], Rava said: What is there to be concerned about? Surely Rav Chiya bar Abba said in the name of Rabbi Yochanan [that] a husband who said, “I divorced my wife” is believed.

Abaye said to him: But, surely, when Rabbi Yitzchak bar Yosef came, he said in the name of Rabbi Yochanan [that] a husband, who said, “I divorced my wife,” is not believed!?

He said to him: Is he not? Surely it has been explained that one [report speaks] retroactively and the other as to the future!

Abaye asked: Shall we then, [came the reply], rely upon an explanation?!

[Thereupon] said Rava to Rav Nassan bar Ammi: Take this into consideration.

A certain [person] was known to have no brothers, and at the time of his death he declared that he had no brothers. [In considering the case] Rav Yosef said: What is there to be concerned about? In the first place it is known that he has no brothers, and secondly he

[himself] has declared at the time of his death that he had none.

Abaye said to him: But [people] say that in the faraway land there are witnesses who know that he has brothers!

Rav Yosef replied: Now, at any rate, they are not before us. [Is this case] not the same as that of Rabbi Chanina? For Rabbi Chanina said: Shall she be forbidden [because there are] witnesses somewhere up north!

Abaye said to him: Shall we relax [the law] in [the case of] a married woman because we relaxed [it] in [the case of] a captive woman?

[Thereupon] said Rava to Rav Nassan bar Ammi: Take this into consideration. (134b – 135a)

The Mishna had stated: [If he says] This is my brother, he is not believed.

The Gemora questions: And what do the other [brothers] say? If they say, “He is our brother,” why should he [only] take [a share] with him in his portion and no more? [If], however, they say, “He is not our brother,” [how will you] explain the latter [clause]: [If, however,] he acquired property from another source, his brothers share the inheritance with him. [Why



should they inherit?] Surely they had declared of him, “He is not our brother”!?

The Gemora answers: [This law is] required [in the case] only where they say, “We do not know.”

Rava said: This implies [that if a person claims from another], “You owe me a maneh,” and the other replies, “I do not know,” he is exempt.

Abaye said: It may still be maintained [that he is] liable, but here [the case is] different, for it resembles [the case where one states], “You owe a maneh to another [person].” (135a – 135b)

The Mishna had stated: If he dies the property reverts to its owner [etc.]

Rava inquired: What [is the law in respect of] the natural appreciation of the estate? As regards appreciation which reaches the shoulders (i.e., produce), there is no question at all, since this resembles property that fell to him from elsewhere. The question, however, arises [as to] what [is the law] in [the case of] appreciation which does not reach the shoulders as, for example, [where he gave him] a date palm and it grew stronger [or a plot of] land and it yielded sediment. This remains undecided. (135b)

If a person died and a will was found tied to his thigh, it is of no legal value. If thereby he made an assignment to someone, whether [this person is one] of the heirs or not, his instructions are legally valid. (135b)

The Gemora cites a braisa: What is a “*daitiki*?” It stands for “*da tehei l’meikam v’lihiyos*” -- “this (*the contents*

of this document) should be upheld.” [It is referring to a document that a person on his deathbed instructs should be written.] And which is a [regular] gift [document]? Any [document] in which is written, “[Acquire the gift] from today and after my death.”

The Gemora asks: But, [accordingly], a gift would be [legal only when it is written] “from today, and after my death”? [If, however, it were written], “from now,” the gift would not be [legal]?

Abaye replied: [It is] this that was meant: Which is the gift of a person in good health that is [regarded] as the gift of a dying man in that no possession [of its produce] is acquired until after death? Any [document] in which it is written, “from today and after my death.” (135b)

Rabbah, son of Rav Huna sat in the pavilion of the Academy of Rav and reported [the following statement] in the name of Rabbi Yochanan: [If] a dying man said, “Write [the document] and deliver a maneh to So-and-so,” and he died, they [must] neither write nor deliver, since it is possible that he has determined to give [the gift] by means of the document only, and no document [may be the means of acquiring possession] after death. Rabbi Elozar said to them (the students): Be careful about this (i.e., observe this law).

Rav Shizvi said [that] Rabbi Elozar had reported it, and [that] Rabbi Yochanan said to them: Be careful about this.

Rav Nachman bar Yitzchak said: Logical reasoning favors the opinion of Rav Shizvi, [for] if it be said that Rabbi Elozar had reported it, it was necessary [for]

Rabbi Yochanan to corroborate his statement (for R' Elozar was R' Yochanan's disciple). If, however, it be said [that] Rabbi Yochanan had said it, [was] it necessary [for] Rabbi Elozar to corroborate the view of Rabbi Yochanan his teacher?

And, furthermore, come and hear [the following which proves] that Rabbi Elozar had recited it. For Ravin sent in the name of Rabbi Avahu: Be [it] known to you that Rabbi Elozar has sent [word] to [those in] the Diaspora in the name of our teacher [that] if a dying man said, "Write and deliver a maneh to So-and-so," and he died, they must neither write nor deliver, since it is possible that he has determined to give him the gift by means of the document only, and no document [may serve as a means of acquiring possession] after death. And Rabbi Yochanan said: [The matter] shall be investigated.

What is meant by: it shall be investigated?

When Rav Dimi came he said (two rulings): [i] [One sickbed] will annuls [another sickbed] will. [ii] [If] a dying man said, "Write [a document] and give a maneh to So-and-so," and he died, [his motive] is inquired into. If [it was] to strengthen his claim, [the document] is written; but if not, it is not written.

Rabbi Abba bar Memel raised an objection: [It was taught:] If a person in good health said, "Write [a document] and deliver a maneh to So-and-so," and he died, they must neither write nor deliver. But, [it follows, in the case of] a dying man, they may both write and deliver!?

He raised the objection and he himself explained it: [This refers to the case] where [the donor desired] to strengthen his claim.

How is one to understand [whether a donor desired] to strengthen [the beneficiary's] claim? As Rav Chisda said: [This is a case where the witnesses record:] And we have acquired [legal possession] of him, in addition to [the presentation of] this gift, [so] here also [the donor's motive may be known] when he declared, "Also write, and sign, and deliver to him."

It was stated: Rav Yehudah said in the name of Shmuel: The halachah is that [the document of a gift] is written and delivered. And Rava in the name of Rav Nachman said likewise: The halachah is that [the document] is written and delivered. (135b – 136a)