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Bava Basra Daf 146

Produced by Rabbi Avrohom Adler, Kollel Boker Beachwood

Daf Notes is currently being dedicated to the neshamot of

**Moshe Raphael ben Yehoshua (Morris Stadtmauer) o”h**  
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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

***Days of a Pauper***

Rabbi Yehoshua ben Levi says: The verse states [Mishlei 15:15] *All the days of a poor man are bad*. The *Gemora* asks: Are all his days bad; what about *Shabbos* and *Yom Tov* (and the local charity organizations give out food and support before *Shabbos* and *Yom Tov*)? Rather, it is as Shmuel said: Any change in schedule may lead to a stomach illness. [Being that they only eat dry bread during the week and suddenly eat meat (and other delicacies) on *Shabbos*, they get sick.]

Ben Sira said: Even the nights of a poor person are bad. Lower than all the other roofs is his roof (since he cannot afford a tall house), and on the height of mountains is his vineyard. It emerges that the rain from other roofs fall down upon his roof and the earth of his vineyard falls into the vineyards of others (his fertilizer gets blown away with the wind). (146a)

***Mishna***

If the groom sent presents to his father-in-law’s house worth one hundred *maneh* (a lot of money), and he ate there the next day as the groom (after *kiddushin* but not *nisuin*), even if he only ate worth a *dinar*, he cannot get these presents back. [The case is where either of them die or they get divorced. If he would die, his inheritors would ask for the money back.] If he did not eat there at all, he could get them back. If he sent a lot of presents in order that the family should go with his new bride to the house of her

husband, he can collect these presents. If he just sent her small present that she could use while she is still in her father’s house, he cannot collect them. (146a)

***Collecting the Presents***

Rava says: He cannot get them back if he ate worth a *dinar*. However, if he did not eat worth a *dinar*, he could.

The *Gemora* asks: This is obvious, as it says in the *Mishna* “a *dinar*”!

The *Gemora* answers: One might think that this even applies if he ate less than a *dinar*’s worth. It only says *dinar* because this is a normal amount. This is why Rava says that it specifically means a *dinar*.

The *Gemora* asks: We know this is true if he ate there. Does this also apply to him drinking? The *Mishna* says that he ate there. What if he sent a messenger to eat in his place? The *Mishna* says that he ate there. What if they sent him things to eat (from the meal)? [In these new scenarios, can he collect the gifts if the marriage is not completed?]

The *Gemora* attempts to answer these questions from the following incident. Rav Yehudah says in the name of Shmuel: There was an incident where a person sent to his father-in-law one hundred wagonloads of goods, including barrels of wine and oil, vessels of silver and gold, and silk clothing. He rode on his horse out of happiness (and drank some wine while doing so-Rashbam). He went and stood by the opening of his father-in-law’s house. They brought him

a cup of wine (*with hot water*), and he died. Rabbi Acha, the officer of the capital, brought this question before the *Chachamim*. They ruled that the presents that were supposed to be used up before the *nisuin* cannot be collected. The presents that were not supposed to be used up can be collected (*by the family of the dead groom*).

This teaches us that the law is not only regarding eating at his father's house, but also drinking.

The *Gemora* asks: It seems that this is even true if he drinks less than a *dinar*! [*This is a question on Rava who earlier said that less than a dinar does not entitle the family of the groom to a claim for the presents.*]

Rav Ashi answers: Who says that they did not grind up a diamond worth one thousand *zuz* and put it in his hot water (*which was common to do amongst aristocrats for health reasons*)?

The *Gemora* asks: It seems that this is even true if they sent him food or drink (*as all of his drinking was done outside his father's house*)?

The *Gemora* answers: Perhaps being at the opening of his father-in-law's house is the same as being in his house.

They inquired: Is the groom allowed to get back part of what he sent based on how much he ate? [*Tosfos explains the questions as follows. Even though Rava said that one cannot get anything back if he ate a dinar's worth, does this mean that he would only be able to get back half of what he sent if he ate a half-dinar's worth? Or does this mean that if he ate less than a dinar's worth he gets everything back?*] What is the law if the presents appreciated while they were at his father-in-law's house? [*For example, if the sheep he sent had offspring, who do they belong to?*] Do we say that because they essentially belonged to him the whole time, the improvements belong to him as well? Or do we say that because his father-in-law was responsible for them if they

were stolen or lost (*and it was given originally as a present*) that the improvement belongs to his father-in-law? The *Gemora* leaves these questions unresolved.

Rava inquired: What is the law regarding presents that were supposed to have been used up but were not?

The *Gemora* attempts to answer this question from a *braisa*. The *braisa* states: Rabbi Acha, the officer of the capital, brought this question before the *Chachamim*. They ruled that the presents that were supposed to be used up before the *nisuin* cannot be collected. The presents that were not supposed to be used up can be collected. This seems to imply that it does not matter if they were used up, but rather it is determined by the purpose of the present!

The *Gemora* answers: No, it means that they were actually used up.

The *Gemora* attempts to answer from our *Mishna*.

The *Mishna* says: If he just sent her small presents that she could use while she is still in her father's house, he cannot collect them. [*This implies the important thing is the purpose, not whether they were actually used in the father's house.*]

Rava answers: The *Mishna* is talking about inexpensive scarves and similar things that he always waives his rights to after he gives them to her.

Rav Yehudah says in the name of Rav: There was an incident where a person sent to his father-in-law new wine, new oil, and new linen clothing for *Shevuos*.

The *Gemora* asks: What novelty was Rav Yehudah teaching with this statement?

The *Gemora* answers: It could be he was relating the greatness of *Eretz Yisroel* (*how the new produce was already grown and harvested by Shevuos*). Alternatively, the



*Gemora* answers: He is teaching that if someone demands these types of presents back (*rightfully*), he should not be thought of as a liar (*as it is possible these things were indeed ready by Shevuos*).

Rav Yehudah says in the name of Rav: There was an incident where a person was told that his new wife had no sense of smell. He went after her into a ruin to check whether or not this was true (*and he had a radish in his pocket*). He said to her: "I smell a radish in Galil." She said to him: "Who would give me a date from Yericho so I could eat it (*the radish, as dates were often eaten with radishes*)!" The ruin then fell on her, and she died. The *Chachamim* ruled that because he only went into the ruin to check whether or not she is indeed his wife (*as if she did not have a sense of smell it would be a "mekach taus" -- "mistaken deal"*), he does not inherit her.

The *Mishna* said: If he just sent her small presents that she could use while she is still in her father's house, he cannot collect them.

Rabin Saba sat before Rav Papa and said: Whether she dies, he dies, or he retracts from marrying her, he can only ask for the presents back, but not the food that he sent. However, if she retracts, even a bundle of vegetables is returned.

Rav Huna the son of Rav Yehoshua says: And the meat that is returned is evaluated at a cheap price. How much is this? It is a discount of one-third of the price. (146a – 146b)

### **Mishna**

If someone who is deathly ill wrote that all of his possessions should go to others, and he left a small amount for himself, the present is valid (*even if he gets better*). If he did not leave anything over for himself, it is invalid (*if he gets better; as this shows he only gave everything because he was convinced he was dying*). (146b)

### **Assumption**

The *Gemora* asks: Who is the *Tanna* whose position is that we take into account assumption (*of the reasoning behind the deal*)?

Rav Nachman answers: It is Rabbi Shimon ben Menasya. The *braisa* states: If his son goes overseas and he heard that his son died, and he then proceeds to give all of his possessions to someone else, and afterwards his son came back, the present is still valid. Rabbi Shimon ben Menasya says: It is invalid, as if he would have known that his son was coming back, he would not have written his possessions to someone else.

Rav Sheishes says: It is Rabbi Shimon Shezuri. The *braisa* states: Originally they said that if someone is being led out to be killed, and he instructs people to write a *get* for his wife, they should write it and give it. They went back and said: This is even true regarding someone who is travelling across the ocean or in a caravan (*far trip*). Rabbi Shimon Shezuri says: This is even regarding someone who was near death.

The *Gemora* asks: Why doesn't Rav Nachman say that it is Rabbi Shimon Shezuri?

The *Gemora* answers: His *braisa* is in a case where the person explicitly said to write a *get* for his wife (*and that is why we assume that it should be given as well*).

The *Gemora* asks: Why doesn't Rav Sheishes say that it is Rabbi Shimon ben Menasya?

The *Gemora* answers: Rabbi Shimon ben Menasya's case is regarding a clear assumption. [*Rav Sheishes brings Rabbi Shimon ben Shezuri as saying that even a normal assumption is taken into account.*] (146b)

## HALACHOS FROM THE DAF

### *Divorce in the Back of His Mind*

The *Gemora* relates a story about a man that was told that his wife can't smell. Rashbam quotes a *Gemora* in Kesuvos regarding a man that was *mekadesh* a woman on the assumption that she has no *mum* (blemishes, or deficiencies) and finds out once they are married that she does, he can claim that it is a *mekach ta'us* (a mistaken purchase) and she leaves the marriage without a *kesuvah*. This only applies to a *mum* that is hidden (i.e. it was not noticeable before they got engaged), for example, she can't smell. The *Gemora* continues: The man decides to test her. He takes her into a secluded place and hidden in his pocket is a radish. He remarks to her that he smells radishes from nearby Galilee. The point of this was to test her response, and from that he'll be able to discern if she could really smell or not. His wife immediately understood what this whole charade was about, and jokingly replied that she can smell the dates (which in those days was eaten together with radishes). The man realized that she can smell after all, and was about to apologize, but calamity struck and the room that they were in collapsed on her, and she died.

The question is: Can the husband inherit his wife's property? The *Gemora* rules that "since he only went into the secluded place to test her, he may not inherit her property." The Rashbam explains that since the husband tested her to see if she can smell, and although she was able to, in the back of the husband's mind, he was about to divorce her if she had a *mum*. Therefore the status of imminent divorce stays, until he clearly has no intention of divorcing her. The Rashbam logically applies this to any case where the husband had an argument with his wife and has in mind to divorce her, if she dies when he is still in that mindset, then he cannot inherit her. He brings proof from a *Gemora* in Gittin which states that once a husband intends to divorce his wife, as long as he still has that mindset, he

cannot continue to eat her fruits (a husband has a right to eat the fruits of his wife's field or property).

Tosfos explains that the *Gemora* is talking about a man that was not married to the woman, rather he was engaged. Understandably, the Rashbam's premise that a husband loses his right to inherit his wife if she died while he had in mind to divorce her, has no basis from this *Gemora*. Tosfos also disproves the Rashbam's proof from the *Gemora* in Gittin.

The Rema (Even Ha'ezer Siman 90 Seif 5) rules that as long as a man did not actually divorce his wife, even if he intended to do so, he inherits her property. This is the opinion of Tosfos.

There is a rule in the *halachos* of mourning that we go after the lenient opinion. Therefore although we don't follow the opinion of the Rashbam in regards to inheritance, there are *Poskim* (Chochmas Shlomo cites Yam Shel Shlomo, Pischei Tshuva cites a Yeshous Yaakov that records that this was the Maharal's view), that maintain in the above scenario, where the husband had in mind to divorce his wife, he is not considered a mourner.

## DAILY MASHAL

### Those Who Learn Gemara Are Like Woodchoppers

Rabbi Chayim Vital attested that his mentor, the Ari z"l, would devote tremendous efforts to learning Gemara, even sweating from the strain. The Ari explained that the Gemara's questions stem from the *kelipos* – the impure shells – and that by learning so strenuously he could break the shells and elevate the sparks of sanctity entrapped therein. In his *Pesach Einayim*, the Chida remarks that for the same reason our *sugya* calls those who learn Gemara woodchoppers: learning Gemara should demand at least the same effort as that needed for chopping wood.