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Avodah Zarah Daf 71

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Mishna

Jewish workers to whom an idolater sent a barrel of *nesech* wine as their wage - may say to him, “Give us its sale money instead” (*sell it and give us the money*); but once it has come into their possession, it is forbidden (*for it is regarded as the sale of nesech wine*). (71a)

Satisfying his Tax Obligation

Rav Yehudah said in the name of Rav: A man is allowed to say to an idolater, “Go and pay for me the king’s portion (*and I will pay you back*).” [*This is permitted, for he didn’t tell him to use the nesech wine, and he could have paid cash; he is therefore not acting as his agent to do that.*] (71a)

Mishna

If one sells his wine to an idolater, if he stipulated the price before he measured it, its money is permitted (*for the idolater acquired it when he lifted it up; he is therefore required to pay the Jew for it; since at that time, the wine was not forbidden yet, for he did not touch it, the money is permitted*); if, however, he measured it before the price was stipulated, its price is forbidden. (71a)

An Idolater’s Meshichah

Ameimar said: Acquisition through *meshichah* (*pulling it into his domain*) applies to an idolater. This may be proven from the practice of the Persians who send gifts to one another and never retract.

Rav Ashi said: Acquisition through *meshichah* does not apply to an idolater, and the reason why they do not retract is due to the spirit of haughtiness which possesses them.

Rav Ashi said: What is my source for this statement? It is from that which Rav directed the Jewish wine sellers, “When you measure wine for idolaters, first take the money and then measure the wine for them, and if they do not have money available, lend it to them and take it back (immediately – before you pour the wine), so that it should be a loan of money with them. For should you not act in this manner, when it becomes *yayin nesech*, it will be in your possession, and when you take payment for it, it will be a payment for the *yayin nesech*.” Now if it should enter your mind that acquisition through *meshichah* does apply to an idolater, then as soon as he pulled the wine to himself, he has acquired it, and it did not become *yayin nesech* until he touched it!

The *Gemora* disagrees with the proof: It would indeed be so if the wine was measured and poured into a vessel belonging to the Jew (*for meshichah applies to an idolater, and he has acquired it before it became nesech*), but Rav’s instructions were necessary in the case where the Jew measured and poured it into the idolater’s vessel (*and the wine would then become nesech as soon as it reached the bottom of the vessel because the vessel contains a residue of nesech wine, and if the money would be paid afterwards, it would be in exchange for wine which was*



prohibited).

The *Gemora* asks: But even so, as soon as the wine enters the airspace of the vessel, the idolater has acquired it (*with hagbahah; as the idolater lifted the wine while he was holding the vessel*), and it does not become *yayin nesech* until it reached the bottom of the vessel. Are we, then, to conclude that the flow is regarded as a connection (*with respect of yayin nesech; and the wine being poured becomes prohibited even before it reaches the bottom*)?

The *Gemora* answers: No! If the idolater was holding the vessel in his hand, it would indeed be so (*that the idolater has acquired it with hagbahah before it became yayin nesech*), but Rav's instructions were necessary in the case where the vessel was resting upon the ground.

The *Gemora* asks: But let the idolater's vessels acquire the wine for him!? Should it to be deduced from this that the purchaser's utensils do not effect ownership for him even in the domain of the seller?

The *Gemora* answers: No; I can always maintain that the purchaser does acquire the produce (*in such a case*); but we are dealing here with a case when there is a lip which keeps some wine on the mouth of the idolater's vessel, through which the wine being poured becomes *nesech* even before it enters the idolater's vessel. [*They must pay first, for otherwise, all the wine has become nesech when it came into contact with the lip of the vessel, where some residue of nesech wine remained.*]

The *Gemora* asks: According to whom will Rav be ruling? It will not be in accordance with Rabban Shimon ben Gamliel, for if it were in accordance with him, behold he has said: All of it (*a mixture of permitted wine with nesech wine*) may be sold to an idolater except for the value of the *yayin nesech* which is in it!

The *Gemora* answers: Against whom is this argument directed? It is against Rav; but he himself stated that the *halachah* follows Rabban Shimon ben Gamliel only when a barrel of *yayin nesech* became mixed with other barrels (and you can sell pour one barrel out and benefit from the rest), but not when *nesech* wine became mixed with other wine.

The *Gemora* asks on Ameimar (*who maintains that acquisition by meshichah does apply to an idolater*) from a *braisa*: If one bought scraps of silver from an idolater and found an idol amongst it, should he have performed *meshichah* on it before paying over the purchase price he can return the idol (*for he has not acquired it, and has no obligation to destroy it*); but should he have performed *meshichah* on it after paying over the purchase money, he must cast the idol into the Dead Sea (*for he has acquired it through meshichah and money; he cannot return it, for it is forbidden to sell an idol*). Now if it enters your mind that acquisition by *meshichah* does apply to an idolater, how can he return it (*in the first case*)?

Abaye answers: It is because it is a purchase made in error.

Rava asked: Is there a purchase made in error only in the first case, and not in the second?!

Rather, said Rava: There is a purchase made in error in both cases; but in the first case, since the Jew did not pay any money yet, it does not appear like an idol in the possession of a Jew (*for when he returns the idol, the idolater does not give any money*), whereas in the second case, since the Jew paid the money, it appears like an idol in the possession of a Jew (*for when he returns the idol, the idolater returns the money*).

Mar Kashisha, the son of Rav Chisda, said to Rav Ashi:



Come and hear: Our *Mishna* proves that acquisition through *meshichah* applies to an idolater, for it states: If one sells his wine to an idolater, if he stipulated the price before he measured it, its money is permitted. Now should you hold that acquisition through *meshichah* does not apply to an idolater, why is the purchase money permitted?

Rav Ashi answered: The *Mishna* is dealing with a case where he paid him a *dinar* beforehand (*which is definitely more than the price of the wine will be*).

Mar Kashisha asked him: If so, let us consider the latter part of the *Mishna*: If, however, he measured it before the price was stipulated, its price is forbidden. Now if he paid him a *dinar* beforehand, why should the purchase money be prohibited?

Rav Ashi answered: But according to you who holds that an acquisition through *meshichah* applies to an idolater, why in the first case is the purchase money permitted and in the second case it is prohibited! What you will respond is that when the price was set beforehand, his mind is made up to acquire the wine, and if the price had not been set, his mind is not made up. Similarly, according to my opinion, even when he has paid him a *dinar* in advance, should the price have been set, his mind is made up and if the price had not been set, his mind is not made up.

Ravina said to Rav Ashi: Come and hear a proof that acquisition through *meshichah* applies to an idolater, for Rabbi Chiya bar Abba said in the name of Rabbi Yochanan: A Noahite is executed for stealing even if the item is worth less than a *perutah*, and it does not need to be returned. Now if you hold that acquisition through *meshichah* does not apply to an idolater, why should he be killed (*he has not acquired the stolen item*)?

Rav Ashi answered: It is because he has caused anguish to a Jew. (71a – 71b)

DAILY MASHAL

Fleeing from Gold Coins

Many wondrous tales were recounted about Rabbi Yeshayah Zuchwitzer, one the leaders of Lithuanian Jewry. Once a local nobleman wanted to test him. He commanded one of his servants to leave piles of gold coins on Rabbi Yeshayah's way to *shul* on Shabos and hide in the bushes to see what he would do. The servant heard him say, "Remember, Yeshayah, it's Shabos. Don't touch them." *Chazal* said, "Flee from sin," and he immediately fled the scene (*Emunas HaTechiyah*).