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Kesuvos Daf 53

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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

Rav Pappa and Yehudah

Rav Pappa was making arrangements for his son to be married to the daughter of Abba of Sura (*his father-in-law; Rav Pappa's son was obviously born to him from a previous marriage, for otherwise, it would be prohibited for him to marry his mother's sister*). Rav Pappa went there to write the *kesuvah* for the bride. When Yehudah ben Mereimar heard of his arrival, he left his house and came before Rav Pappa. When they reached the door of Abba of Sura's house, Yehudah wished to depart. Rav Pappa said to him, "Will the master come in with me?" Rav Pappa observed that it was distasteful to him to enter. Rav Pappa asked him: What is it that you have on your mind? Are you reluctant to enter because Shmuel said to Rav Yehudah: "Smart one! Do not be present when an inheritance is being transferred (*away from the rightful heir*) even when it is from a bad son to a good son, because one never knows what offspring will come forth from him (*the bad son*), and certainly when the transfer is from a son to a daughter (*even though the transfer is valid, it should not be condoned*)." (*Here too, a father is writing a dowry to his daughter and is pledging property that should belong to his sons.*) Rav Pappa explained to him that providing a dowry is an enactment of the Rabbis, as Rabbi Yochanan stated in the name of Rabbi Shimon ben Yochai (*and therefore there is nothing wrong for one to be present by this transfer*). Yehudah replied: Perhaps this enactment applies only to one who acts willingly; may we force the father to write a dowry?

Rav Pappa said: I didn't mean for you to come in and force the father; I meant that you should come in without forcing him. Yehudah answered him: If I would go in, it would

amount to compulsion (*Abba of Sura would be ashamed to offer a small dowry in the presence of a distinguished guest*).

Rav Pappa urged him to enter, but having sat down, he remained silent. Abba thought that Yehudah was displeased with the amount that he pledged and consequently assigned to his daughter all that he possessed. Finally, however, Abba said to him: Will the master not speak even now? By the life of the master, I have left nothing for myself! Yehudah replied: If you would have listened to me, even the initial amount that you assigned did not give me any pleasure.

Abba asked: May I retract from what I pledged? Yehudah responded: I do not want that you should become a retractor (*he is legally permitted to retract since there was no erusin yet*). (52b4 – 53a1)

Selling her Kesuvah

Rav Yeimar Sava inquired of Rav Nachman: If a woman sold her *kesuvah* to her husband, does she still have the *kesuvah* condition for the male children or not (*perhaps she has no right to sell the rights that her sons have in the dowry*)?

Rava said to him: Why didn't you inquire regarding a case where she waives her right to the *kesuvah*?

Rav Yeimar Sava explains himself: I inquired regarding a case where she sold her *kesuvah*, for even though her financial situation compelled her to sell it, she still might lose the rights to the conditions in the *kesuvah*; certainly, she might lose her rights to the *kesuvah* conditions when she waives her rights to the *kesuvah*.

Rava said: In a case that she sells her *kesuvah* to others, it is obvious to me that she retains the right to the *kesuvah* conditions for the male children because she only sold the *kesuvah* due to her financial situation. If she waived the rights to her *kesuvah*, she has forfeited the right to the *kesuvah* conditions for the male children because she has willingly waived her right to the *kesuvah*.

Rava inquired: Is selling the *kesuvah* to her husband tantamount to selling it to others (*and she would retain the right to the kesuvah conditions for the male children*) or is it like she waived the rights to the *kesuvah* to her husband? Rava resolved the inquiry himself: Selling the *kesuvah* to her husband is tantamount to selling it to others.

Rav Idi bar Avin challenged Rava by citing a *Mishnah* in *Yevamos* (87b): If a woman's husband went overseas, and they came (*one witness*) and said to her, "Your husband died," and she married, and afterwards her husband returned, she must leave this one and this one. And the heirs of neither this one, nor of this one inherit her *kesuvah*.

The *Gemora* there (91a) asked: Why are we mentioning *kesuvah* here? The *Mishnah* had already taught us that she does not receive a *kesuvah*. Rav Pappa answered: The *Mishnah* now is referring to the *kesuvah* conditions for the male children. (*Stipulated in the kesuvah is that her sons are entitled to receive her kesuvah from their father's estate when he dies, even if their mother died first and their father married again and had sons with his second wife. They receive her kesuvah in addition to their shares in their father's estate to which the sons of both the first and the second wife are equally entitled. In the case spoken of in our Mishnah, however, the sons of the first wife lose their claim to her kesuvah.*)

Rav Idi concludes his question: Why do we say that she forfeits the right to the *kesuvah* conditions? Why don't we say that her evil inclination compelled her (*just as here, her financial situation compelled her to sell the kesuvah*) to accept the testimony of one witness because she wanted to

remarry and she should not lose the right to the *kesuvah* condition?

The *Gemora* answers: The Rabbis penalized her there because she did not investigate the matter thoroughly, and that is why she loses her rights to the conditions of the *kesuvah*. (53a1 – 53a3)

She Waived her Right

Ravin bar Chanina sat before Rav Chisda and he said in the name of Rabbi Elozar: If a woman waives her right to the *kesuvah* to her husband, she does not receive sustenance from the husband's estate after she is widowed.

Rav Chisda replied: If you had not reported this *halacha* to me in the name of a great man, I would have thought that the woman should not lose that right because it is written [Mishlei 17:13]: *If one repays good with evil, evil will not depart from his house. (She did a favor to the husband by waiving her right to the kesuvah, he should repay the favor and she should be supported from his estate while she is a widow.)* (53a3)

Burying an Arusah

Rav Nachman, Ulla and Avimi bar Pappi were sitting and Rav Chiya bar Ammi was sitting with them. A man, whose *arusah* had died, came before them. They told him: Go bury her or give her *kesuvah* to her (*this is referring to the statutory amount of the kesuvah, these Rabbis being of the opinion that the husband has been allowed to retain the kesuvah of his deceased wife for the expenses he incurred in the burial*).

Rav Chiya asked them from the following *Baraisa*: If a wife from *erusin* dies, the husband is not deemed to be an *onein* (*one whose close relative passed away and has not been buried yet*), he may not become *tamei* to her if he is a *Kohen*; and similarly (*if he dies*) she is not an *onein*, she does not have to be busy with his burial. If she dies, he does not inherit her and if he dies, she collects her *kesuvah*. Rav Chiya concluded: The reason why she collects her *kesuvah* is because the husband died first; however, it is evident that if

she dies first, there are no *kesuvah* obligations (*and the husband would not be required to bury her*).

The *Gemora* asks: What is the reason for this *halachah*?

Rav Hoshaya answers: For the following is written in the *kesuvah*: When you marry another man, you can take what is written for you. This implies that she collects her *kesuvah* only if she may marry another man and that doesn't apply when she died first.

Ravin came from Bavel to *Eretz Yisroel* and said in the name of Rish Lakish: An *arusah* who dies (*before the husband*) does not have a right to her *kesuvah* (*the husband is not required to bury her*).

Abaye said to the *Chachamim*: Go tell Ravin: Your favor is taken away and cast onto thorns (*the information which he intended to be an assistance to the students was of no use to them*), for Rav Hoshaya already explained this ruling in Bavel. (53a3 – 53b1)

Terminating Support for the Daughters

The *Mishnah* had stated: The daughters that I will have from you they will sit in my house and be supported by my estate until they are taken as wives by men is (*also automatically*) obligatory, as it is a condition of *Beis Din*.

Rav taught the *Mishnah* in the following manner: The daughters will be supported until they are taken into marriage. Levi taught: The daughters will be supported until they reach the state of *bagrus* (*generally, at twelve and a half*).

[Would daughters then be maintained] according to Rav although they attained adolescence, and according to Levi even though they married? — Rather, the *Gemora* explains: They both agree that if the daughter becomes a *bogeres* or if she enters into *nisuin*, her right to support expires. They

only argue regarding an *arusah* who has not reached the state of *bagrus* yet.

So also did Levi teach in his Baraisa: Until they shall attain adolescence and the time for their marriages arrives. Both?¹ — What was meant is this: Either they shall attain adolescence or the time for their marriage shall arrive.

[They differ on the same principles] as the following Tannaim: Until when is a daughter supported? Until she becomes an *arusah*. It was said in the name of Rabbi Elozar: Until she becomes a *bogeres*. (*Rav is following the opinion of the Tanna Kamma and Levi is following Rabbi Elozar's opinion.*)

Rav Yosef taught a Baraisa: [Daughters must be maintained] until they become [wives]. The question was raised: Does this mean becoming [wives] at marriage or becoming [wives] at betrothal? — The question must stand unanswered. (53b1 – 53b2)

Support for an Arusah

Rav Chisda said to Rav Yosef: Have you ever heard from Rav Yehudah whether an *arusah* receives support from her father's estate or not?

Rav Yosef said to him: I never heard from Rav Yehudah regarding this, but I logically assume that she is not entitled for support. The reason that the Rabbis established that the daughters will be supported by their father's estate is because we didn't want them to be compelled to suffer the humiliation of begging for food; however, this is not applicable by an *arusah*. Her husband would not allow her to beg for food (*and he will sustain her*) and there is therefore no necessity for her to be sustained by her father's estate.

Rav Chisda replied: If you did not hear anything regarding this, my logic dictates that she should receive support. Since the husband has not completely decided if he will marry her

¹ Is both necessary – the arrival of *bagrus* and the arrival of *nisuin* - necessary before her support is discontinued?



(perhaps she has defects), he will not throw away his money for nothing.

The *Gemora* cites another version of this discussion: Rav Yosef said to Rav Chisda: I never heard from Rav Yehudah regarding this, but I logically assume that she is entitled for support. Since the husband has not completely decided if he will marry her (perhaps she has defects), he will not throw away his money for nothing.

Rav Chisda replied: If you did not hear anything regarding this, my logic dictates that she should not receive support. Since her husband would not allow her to beg for food (and he will sustain her), there is therefore no necessity for her to be sustained by her father's estate. (53b2)

Support for a Girl who Performed Mi'un

[The *Gemora* will present five inquiries regarding a daughter's right to support from the estate of her father.] The mnemonic (for the names of the five people discussing these inquiries is: ShaK ZaRaPh (Sheishes, Rish Lakish, Elozar, Rava and Rav Pappa). These inquiries discuss a woman who refused, a yevamah, a secondary ervah, an arusah and a woman who was violated.

They inquired of Rav Sheishes: Regarding a minor girl who performed *mi'un* (A girl whose father had died could be given in marriage while still a minor (under the age of twelve) by her mother or older brother. This marriage is only valid Rabbinically. As long as she has not attained the age of twelve, she may nullify the marriage by refusing to live with her husband. This act of refusal, referred to as *mi'un* nullifies the marriage retroactively.); is she entitled to be supported by the father's estate (because the *nisuin* has been retroactively nullified) or not (since she left her father's authority through *nisuin*)?

Rav Sheishes cited the following *Baraisa* to them: A widow in her father's house (after *erusin*), a divorced woman in her father's house or a woman who was awaiting *yibum* in her father's house is entitled to be supported from her father's

estate. Rabbi Yehudah said: Only a woman who is still in her father's house is entitled to support, but a woman who is no longer in her father's house is not entitled to support. It would seem that Rabbi Yehudah and the *Tanna Kamma* are ruling in an identical manner. The difference between them must be regarding a minor girl who performed *mi'un*. The *Tanna Kamma* maintains that she is entitled to be supported and Rabbi Yehudah disagrees. (53b2 – 53b3)

Support for the Daughter of a Yevamah

Rish Lakish inquired: Does the daughter of a *yevamah* receive support from her father's estate or not?

The *Gemora* elaborates: Since the *yevamah* receives her *kesuvah* from her initial husband, it would seem logical that she does not receive support from her father's estate. Or perhaps, since, if there is no available *kesuvah* from her initial husband, she collects the *kesuvah* from the *yavam*, the daughter may receive support from his estate as well?

The *Gemora* lets this question remain unresolved. (53b3)

INSIGHTS TO THE DAF

Transferring Inheritance Away From Yishmael

Shmuel said to Rav Yehudah: "Smart one! Do not be present when an inheritance is being transferred (away from the rightful heir) even when it is from a bad son to a good son, because one never knows what offspring will come forth from him (the bad son) and certainly when the transfer is from a son to a daughter (even though the transfer is valid, it should not be condoned)."

It is written in Parshas Chaye Sarah [24:10]: *And the servant took ten camels of his master's camels, and he went, and all the best of his master was in his hand.* Rashi comments that Avraham wrote a gift deed to Yitzchak for everything he owned, so that they would hasten to send him their daughter.

The Daas Zkeinim asks: The *Gemora* in Eruvin states that Avraham fulfilled the entire Torah including the Rabbinical obligations, such as *eruv tavshilin*. How could Avraham transgress this prohibition of transferring the inheritance away from the rightful heir; Yishmael and the sons of Keturah should have been the inheritors?

The Mizrachi answers: Avraham was permitted to do this because he was told by Hashem [Breishis, 21:12]: *For in Yitzchak will be called your offspring.*

The Maharal in Gur Aryeh answers: It was permitted because Sarah had told Avraham [ibid, v. 10]: *For the son of this handmaid shall not inherit with my son, with Yitzchak.* Sdei Chemed explains: Would Avraham heed Sarah's words and violate a Rabbinical prohibition? Rather, the explanation is as follows: Since Hashem agreed with Sarah and He told Avraham [ibid, v. 12]: *Whatever Sarah tells you, hearken to her voice,* Avraham was given permission to transfer all his possessions to Yitzchak.

The Yefeh Toar answers that there is no transgression whatsoever when a father gives his possessions away during his lifetime; the prohibition is only when he transfers his property immediately prior to his death.

Maharsha (Sanhedrin 91a) answers: Yishmael and the children of Keturah were not fit to inherit Avraham. This is because Yishmael was the son of a slavewoman and Keturah was a *pilegish*, and not an ordinary wife.

Rav Elyashiv challenges this explanation: Yishmael is referred to in the Torah as Avraham's son; how can the Maharsha say that he was not an actual son?

The Oholei Yitzchak answers the original question: Our *Gemora* explains the rationale for this prohibition. One should not transfer an inheritance away from the rightful heir even when it is from a bad son to a good son, because one never knows what offspring will come forth from him (*the bad son*). Avraham knew through *ruach hakodesh* that

no good offspring will ever come out from Yishmael, and therefore, there is no prohibition to give all his possessions to Yitzchak.

Similarly, the Chasam Sofer explains that which is written [ibid, 21:11]: *But the matter greatly displeased Abraham, concerning his son.* Rashi explains literally: Avraham was displeased because Sarah told him to send Yishmael away. The Chasam Sofer explains: Avraham didn't want to send him away because he was concerned on the account of this prohibition. How could he chase Yishmael away and give all his possessions to Yitzchak if Yishmael is the rightful heir, and perhaps, Yishmael will have some good offspring. Sarah saw through *ruach hakodesh* that there will be no good offspring coming from Yishmael, and Hashem told Avraham to listen to the words of Sarah.

DAILY MASHAL

Reb Avi Lebowitz asks the following question on the Chasam Sofer: Why did Avraham have to wait until a direct instruction from Hashem to listen to Sarah? Shouldn't the prophecy of Sarah that no good will come from Yishmael have convinced Avraham sufficiently - even without a specific instruction from Hashem?

The Maharal answers: Although Avraham was aware of the prophecy, he was still concerned. This is because we find that Yishmael's existence was only because of the fact that he was being judged based upon the level of "b'asher hu sham" - "the way he was at that particular moment," and this is why Yishmael did not die from his illness. Just as we find from the concept of "ba'asher hu sham" - that Yishmael could not be judged based upon the prophecy of what his future actions will be, so too here, Avraham did not want to judge the children of Yishmael based on Sarah's prophecy that they will turn out to be evil; rather, he chose to look at the present. Hashem explicitly told Avraham to listen to Sarah - that was when he became convinced that he needed to disown him.