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DAF Notes
Insights into the Daily Daf
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Kesuvos Daf 85

Daf Notes is currently being dedicated to the neshamot of

Moshe Raphael ben Yehoshua (Morris Stadtmauer) o"h

Tzvi Gershon ben Yoel (Harvey Felsen) o"h

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

Seizing the Boat

The *Gemora* records an incident: Yeimar bar Chashu had a money claim against a certain person who died and left a boat. Yeimar said to his agent, "Go and seize it." He went and seized it, but Rav Pappa and Rav Huna the son of Rabbi Yehoshua met him and told him, "You are seizing the boat on behalf of a creditor and thereby you are causing loss to other creditors (*who cannot take it*). And Rabbi Yochanan ruled: He who seizes a debtor's property on behalf of a creditor and thereby causes loss to other creditors does not legally acquire it. Thereupon, they seized it themselves (*for they too had money claims against the debtor*). Rav Pappa was rowing the boat while Rav Huna the son of Rabbi Yehoshua pulled it by the rope (*each one attempting to acquire it by moving it*). One master declared, "I have acquired the boat," and the other similarly declared, "I have acquired it." (*Each one claimed that their method of pulling it was superior to that of their fellow.*) Rav Pinchas bar Ami met them and said to them: Both Rav and Shmuel ruled that seizure from the orphans will only be valid if the produce was piled up in a public domain, but not in a side street (*for then, it will belong to the orphans; how then, could they be attempting to seize the boat*)? "We too," they replied, "have seized it at the main current of the river (*which is regarded as a public domain*)."

When they appeared before Rava, he said to them: You are like white (*due to their age*) geese (*on account of their wisdom*) that strip the cloaks off people. Rav Nachman has ruled: The seizure is valid only if it took place during the father's lifetime (*however, afterwards, his property may not be seized; this follows the opinion of Rabbi Akiva*). (84b3 – 85a1)

Payment through an Agent

Avimi the son of Rabbi Avahu had a money claim against him by the people of Chozai. He sent the money to them by the hand of Chama the son of Rabbah bar Avahu. He went there and paid them, but when he asked them, "Return to me the document," they replied as follows, "This payment was made in settlement of some other claims (*this document remains unpaid*)."

He came before Rabbi Avahu to complain and Rabbi Avahu asked him, "Do you have witnesses that you have paid them?" "No," he replied. Rabbi Avahu said to him, "Since they could claim that the payment was never made, they are also entitled to claim that the payment was made in settlement of some other claims."

The *Gemora* asks: Must the agent in this case pay Avimi (*for being negligent by paying them without taking the document first*)?

Rav Ashi answers: We examine the exact situation: If the agent was told, "Take the document and give the money," he is regarded as being negligent and he must therefore pay; however, if he was told, "Give the money and take the document," he is not required to pay.

The *Gemora* rejects this ruling and states: The agent must pay no matter what he was told, for the debtor can tell him, "You were sent for my benefit, not for my detriment." (85a1 – 85a2)

Trusting One Witness

There was a certain woman with whom a sack of documents was once deposited (*and the owner of the documents died*). The inheritors of the depositor came to claim it from her and she said, "I seized them during the depositor's lifetime (*because he owed me money*)."

She came before Rav Nachman and he said to her, "Do you have witnesses that the depositor claimed it from you during his lifetime and that you refused to return it (*and this would indeed prove that she seized it during his lifetime*)?" "No," she replied. Rav Nachman said to her, "If so, your seizure occurred after the owner's death, and such a seizure is invalid."

A woman was once ordered to take an oath at Rava's *Beis Din*. Rav Chisda's daughter (*Rava's wife*) said to him, "I know that she is suspected of swearing falsely." Rava, therefore, transferred the oath to her disputant.

On another occasion, Rav Pappa and Rav Adda bar Masna sat in Rava's presence when a document was brought to him. Rav Pappa to Rava: I know that this document has been paid. Rava asked him: Is there any other man with the master to confirm this statement? No, he replied. Rava said to him: Although the master has testified, there is no validity in the testimony of one witness.

Rav Adda bar Masna asked Rava: Shouldn't Rav Pappa be just as reliable as Rav Chisda's daughter (*who was believed without a corresponding witness*)?

Rava answered: As to the daughter of Rav Chisda, I am certain of her that she would not lie; regarding the master, I am not positive about him.

Rav Pappa said: Now that the master has stated that a judge who can assert that a certain person doesn't lie, we may rely upon that person's testimony, I would tear up a document on the testimony of my son Abba Mar, about whom I am certain that he doesn't lie.

The *Gemora* asks: Would he actually tear up a document based upon the testimony of one witness? (*Two witnesses would certainly be required to take away a signed document and destroy it; before, Rava relied on his wife's testimony only to transfer the oath to the other party, but ultimately, the judgment will be decided based upon the oath!*) Is such an act conceivable?

Rather, Rav Pappa said: I would impair the document based upon his testimony (*he wouldn't collect with it, but he wouldn't tear it up either*).

A woman was once ordered to take an oath at Rav Bibi bar Abaye's *Beis Din*. Her disputant suggested to them: Let her rather come and take the oath in our hometown, where she might possibly feel ashamed and confess. She said to them: Write for me the verdict in my favor so that after I shall have taken the oath it may be given to me. Write it out for her, Rav Bibi bar Abaye instructed them.

Rav Pappi said: You are descendants of short-lived people (*Abaye, being a descendant of Eli had a curse placed upon his family*), therefore, you speak frail words. Surely Rava stated: A certification by judges that was written before the witnesses have identified their signatures is invalid. It is apparently evident that such an attestation has the appearance of a false declaration, and so here also, the document that she desires would appear to contain a false statement (*since it is written prior to her oath*).

This conclusion, however, is invalid, as may be inferred from Rav Nachman's statement. For Rav Nachman said: Rabbi Meir ruled that even if a husband found a bill of divorce in a rubbish heap, and then had it signed and gave it to her, it is valid (*even though it appears false*). And even the Rabbis disagree with Rabbi Meir only in respect to letters of divorce, where it is necessary that the writing shall be done specifically in her name, but in respect of other legal documents, they would agree with him. For Rav Assi stated in the name of Rabbi Yochanan: A man may not borrow again using a document on which he has once borrowed and which

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he has repaid since the lien incurred by the first loan (*to collect land that the borrower had at the time of the loa*n) was cancelled. It can be inferred that the only reason is because the lien was cancelled, but, otherwise, the document would be valid, and we are not concerned that it has the appearance of a falsehood. (85a2 – 85b1)

Three Related Incidents

A certain man once deposited seven pearls wrapped in a kerchief with Rabbi Meyasha the grandson of Rabbi Yehoshua ben Levi. Rabbi Meyasha died and did not issue instructions regarding his property. They came before Rabbi Ami (*the depositor wanted his pearls back and the family members claimed that perhaps the pearls' belonged to their father*). Rabbi Ami said to them: Firstly, I know that Rabbi Meyasha the grandson of Rabbi Yehoshua ben Levi was not a wealthy man (*and probably did not own these pearls*). Secondly, the depositor indicated the identifying marks (*by saying that there were seven pearls and that they were wrapped in a kerchief*).

The *Gemora* qualifies this ruling: This ruling, however, applies only to a man who was not a frequent visitor at the Rabbi Meyasha's house, but if he was a frequent visitor there, the identifying marks are not evidence of ownership since it could very well be that another person has made the deposit and he happened to see it.

A certain man once deposited a silver cup with Chasa. Chasa died and did not issue instructions regarding his property. They came before Rav Nachman (*the depositor wanted his cup back and the family members claimed that perhaps the cup belonged to their father*). Rav Nachman said to them: Firstly, I know that Chasa was not a wealthy man (*and probably did not own the silver cup*). Secondly, the depositor indicated the identifying marks.

The *Gemora* qualifies this ruling: This ruling, however, applies only to a man who was not a frequent visitor at the Chasa's house, but if he was a frequent visitor there, the identifying marks are not evidence of ownership since it could very well be that another person has made the deposit and he happened to see it.

A certain man once deposited a silk garment with Rav Dimi the brother of Rav Safra. Rav Dimi died and did not issue instructions regarding his property. They came before Rabbi Abba (*the depositor wanted his garment back and the family members claimed that perhaps the garment belonged to their father*). Rabbi Abba said to them: Firstly, I know that Rav Dimi was not a wealthy man (*and probably did not own the silk garment*). Secondly, the depositor indicated the identifying marks.

The *Gemora* qualifies this ruling: This ruling, however, applies only to a man who was not a frequent visitor at the Rav Dimi's house, but if he was a frequent visitor there, the identifying marks are not evidence of ownership since it could very well be that another person has made the deposit and he happened to see it. (85b1 – 85b2)

Toviah and Toviah

A dying man once said to those around him, "Let my estate be given to Toviah," and then he died. A man named Toviah came to claim the estate. Rabbi Yochanan said: Behold, Toviah has come.

The *Gemora* qualifies the ruling: Now, if he had said, "Toviah," and Rav Toviah came, he would not be entitled to the estate, since he said, "To Toviah," and not, "To Rav Toviah." If he, however, was on familiar terms with Rav Toviah, the estate must be given to him, since the omission of title might have been due to the fact that he was casual with him.

If two men called Toviah appeared, one of whom was a neighbor and the other a Torah scholar, the scholar is to be given precedence (*since we may assume that the dying man desired merits and he granted his property to a Torah scholar*). If one was a relative and the other a Torah scholar, the scholar is given precedence.

They inquired: What is the *halachah* where one is a neighbor and the other a relative? Come and hear from the following verse [Mishlei 27:10]: *Better is a neighbor that is near than a brother far away*.

If both men named Toviah are relatives, or both are neighbors, or both are Torah scholars, the decision is left to the discretion of the judges. (85b2)

Selling the Loan and Forgiving it

Rava said to the son of Rabbi Chiya bar Avin: Come and I will tell you a fine saying from your father: Although Shmuel said: If a man sold a loan document to another person and then he (*the seller*) released the debtor, the latter is legally released *(and the buyer cannot collect the debt*); and, moreover, even the creditor's heir may release the debtor; Shmuel, nevertheless, admits that, where a wife brought in to her husband a loan document (*as melog property*) and then she forgave the debt, the debt is not to be considered forgiven, because her husband's rights (*in the loan*) are equal to hers.

The *Gemora* cites a related incident: Rav Nachman's relative once sold her *kesuvah* for a minimal amount (*the purchaser bought the rights to collect the kesuvah if the husband would divorce her or if he predeceases her*). She was divorced and then died. Thereupon, the buyers came to claim the *kesuvah* from her daughter. Rav Nachman said to them: Is there no one who can tender her the following advice? Let her remit her mother's *kesuvah* to her father, and then she may eventually inherit it from him. When she heard this, she went and remitted it to her father. Thereupon Rabbi Nachman said that he made himself like the lawyers (*based on the Mishna in Avos 1:8, one should not act as a lawyer to aid a litigant before a judge*).

The *Gemora* asks: Originally what did he hold *(was correct)*, and in the end what did he hold *(was correct)*? Originally he held that he should give advice that was beneficial to his relatives, as the verse says [Yeshaya 58:7]: *And from your flesh do not hide yourself*. In the end he held that an important person like himself cannot use this leniency (*for otherwise, people may learn from him and assist even non-relatives*). (85b2 – 86a1)

DAILY MASHAL

Avoid Strengthening Evil

It is written in Yirmiyah: Plow for yourself a furrow, and do not sow upon thorns. The Reishis Chachmah in Shaar Hateshuvah writes: The torah one studies and the mitzvos that one performs before repenting for his youthful sins actually give strength to the Satan (Hashem should save us), for they have an attachment to the holiness. However, it is brought in the name of the Munkatcher Rebbe that there is an advice which can counter this, and that is that one should perform good deeds only for the sake of Hashem, and before every mitzvah he should forego the reward of the mitzvah to the Holy One, Blessed be He, and he shall perform each mitzvah without receiving any reward; he is doing them only to fulfill His will, and then the Satan has no ability to come and touch the mitzvah and to take it for himself.

This, he explains, is based upon our Gemora, which states: If a man sold a loan document to another person and then he (*the seller*) released the debtor, the latter is legally released (*and the buyer cannot collect the debt*). Here also; since we are giving the merit of the mitzvah to Hashem, He is the owner of the reward, and through our sins that we committed, the Satan wants to sap from this reward and from the holy inspiration which was inspired through this mitzvah. And when we forego the document that we have a secured reward for the fulfillment of mitzvos, and we release this as a gift to Hashem, and then they do not have the ability to enter a claim saying that the reward of the mitzvos were sold to them on account of our sins. Since the reward has been forgiven to Hashem, their claim is rendered ineffective, and they are not strengthened whatsoever by our mitzvos.

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