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Gittin Daf 3

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Explaining Rava

The *Gemora* asks: According to Rava, who holds that the declaration is necessary because witnesses are not readily available to authenticate the signatures, two witnesses should be required, similar to all other validations of documents!?

The *Gemora* answers that one witness is believed with respect to prohibitions. [*Rashi explains that one witness is believed that he separated terumah, that he slaughtered an animal properly, or that he removed the forbidden veins and fats from an animal.*]

The *Gemora* asks: A single witness would only be believed with respect to prohibitions only in a case, for example, where there is a piece of fat, and we are uncertain if it is forbidden fat (*cheilev*) or perhaps it is permitted fat (*shuman*). Since in that case, it has never been established that there is something prohibited here, the single witness would be believed. However, here, it has been established that there is something forbidden, for up until now, the woman was a married woman; it therefore is regarded as a matter concerning an *ervah*, and there is a principle that two witnesses are required in all matters concerning *ervah* (*forbidden marital relationships*)!?

The *Gemora* answers: In truth, it is never necessary to authenticate the signatures of the witnesses. This is because of Rish Lakish, who states: If witnesses are signed on a document, it is as if their testimony had been examined in court (*and therefore we are not concerned that it is a forgery*). It was the Rabbis who necessitates the authentication, and since they did not want the woman to remain an *agunah* (*a woman who is held back from getting*

married), they were lenient and allowed the testimony of a single witness.

The *Gemora* asks: Is this a leniency? On the contrary, it is a stringency! For if you would require two witnesses, the husband will not be able to contest the validity of the *get*. However, if only one witness is required, the husband can still contest the validity of the *get* (*by claiming that it is a forgery*).

The *Gemora* answers: Since the master has said: In front of how many people must the agent give over the *get* to the woman? Rabbi Yochanan and Rabbi Chanina dispute this matter. One of them says that he gives it over in front of two people and one of them says that he must give it over in front of three people. Based upon this, the agent will carefully check before declaring that the *get* was written correctly, for he does not wish to ruin his reputation. (3a1 – 3a2)

Reason for the Decree

The *Gemora* asks: Why didn't Rava explain the reason for the decree in the same manner as Rabbah?

The *Gemora* answers: Did the *Mishnah* say that it was necessary for the agent to say that it was written in my presence *lishmah* and it was signed in my presence *lishmah*? [*No! It only said that he must declare that it was written and signed in his presence. This proves that it is because the signatures need to be authenticated, and not because the get might not have been made for her sake.*]

The *Gemora* explains Rabbah: In truth, they should have instituted that he should say that (*it was written in my*

presence *lishmah* and it was signed in my presence *lishmah*). However, they were concerned that if there were too many words for the agent to say, he would leave some out (*and the Gemora says later that if one deviates from that which the Chachamim instituted in regards to a get, the child (if the woman gets married with this get) will be a mamzer*).

The *Gemora* asks: Perhaps even now he will leave out a word?

The *Gemora* answers: He will leave out one word from three (*if he is required to say, "be'fanai nichtav lishmah," he might only say, "be'fanai nichtav"*). However, if there are only two words to say, he will not leave out any (*and after he says, "be'fanai nichtav," we ask him if it was made lishmah*).

The *Gemora* asks: Why didn't Rabbah explain the reason for the decree in the same manner as Rava?

The *Gemora* answers: If the reason for the declaration would be because of the authentication of the witnesses, it would have been enough for the agent to have said, "It was signed in my presence." By the fact that he is required to say, "It was written in my presence," this proves that we are concerned on account of the *halachah* of *lishmah* (*if the get was made for the woman's sake, which includes the writing of the get as well*).

The *Gemora* explains Rava: In truth, they should have instituted that he should only say that (*it was signed in my presence*). However, they were concerned that people would confuse this *halachah* with an ordinary authentication of witnesses, and they would say that only one witness is required (*because of that, they instituted that the agent should also say, "It was written in my presence," in order that it should be recognizable that this is a halachah exclusive to gittin*).

Rabbah would answer that the cases are not comparable (*and people will not confuse gittin with other documents*) for the following reasons: Ordinarily, the witnesses testify that

they recognize the signatures, whereas here the agent testifies that it was signed in his presence. Ordinarily, a woman would not be believed; here, a woman is believed. Ordinarily, the person involved in the matter is not believed; here, that person (*the woman getting divorced*) would be believed.

Rava would answer that since if the agent would say that he recognizes the signatures, he would be believed (*and the get would be valid*), people will still confuse this case with an ordinary authentication of documents, and they would say that one witness would always be sufficient. (3a2 – 3a3)

Who is the Tanna?

The *Gemora* asks: According to Rabbah, who holds that the declaration is necessary in order for us to ascertain if the *get* was made for her sake, who is the *Tanna* who holds that the writing and the signing of the *get* is required to be for the woman's sake? If it is in accordance with Rabbi Meir, he holds that the signatures are required to be *lishmah*, but not the writing of the *get*! For we learned in the following *Mishnah*: A *get* should not be written on something that is attached to the ground (*this is derived from the Scriptural verse which states "and he writes for her...and he gives to her"; this is expounded to mean that it should not be written on something which needs to be detached from the ground before it is given to the woman*). If he does write it on something that is attached to the ground, and then he detaches it, and the witnesses sign on it, and he then gives it to her, it will be valid. [*This Mishnah is explained in the Gemora below (21b) in accordance with Rabbi Meir: Even if the get is written on something which is attached to the ground, it is valid, provided that the witnesses sign on it when it has already been detached from the ground. Thus it is evident that Rabbi Meir understands the term "and he writes for her" to be referring to the signatures, and not to the writing of the get. Accordingly, the halachah of lishmah, which is derived from that same verse, should only be referring to the signing on the get, and not with respect of its writing.*]

And it cannot be in accordance with Rabbi Elozar, for he holds that the writing of the *get* must be done for her sake, but the signing does not have to be for her sake (*for he maintains that Biblically speaking, the get does not need any signatures at all!*)?

But perhaps you will say that it can be in accordance with Rabbi Elozar, for he only says that the signatures do not have to be done for her sake only according to Biblical law; however, Rabbinically, he would require it.

This cannot be correct, for there is a *Mishnah* which lists three cases of *gittin* that are Rabbinically invalid, yet, Rabbi Elozar (*even on a Rabbinic level*) does not require the signatures to be for the sake of the woman! For we learned in the following *Mishnah*: Three *gittin* are Rabbinically invalid, but if she remarries based upon this *get*, her offspring will still be legitimate. 1) If the husband wrote the *get* himself and there are no witnesses signed on it; 2) Witnesses signed on the *get*, but there was no date recorded on it; 3) The *get* has a date, but there is only one witness signed on it. These are three *gittin* which are Rabbinically invalid, but if she remarries based upon this *get*, her offspring will still be legitimate. Rabbi Elozar said: As long as it was given over to the woman in front of two witnesses, it is valid, even though there were no witnesses signed on it. He adds that this type of document may be used to collect from encumbered properties, for the only reason that witnesses sign in the first place is to benefit society (*the woman can now prove that she was divorced by bringing witnesses who recognize the signatures*). [Evidently, Rabbi Elozar holds that it is valid even on a Rabbinic level, for even the first opinion maintained that these *gittin* were disqualified only on a Rabbinic level; Rabbi Elozar, who disagrees, obviously holds that it is completely valid.]

But perhaps you will say that it can be in accordance with Rabbi Meir, for he only says that the writing of the *get* does not have to be done for her sake only according to Biblical law; however, Rabbinically, he would require it.

This cannot be correct, for Rav Nachman said that Rabbi Meir used to say that even if a husband found a *get* in a rubbish heap, and then had it signed and gave it to her, it is valid (*even though it appears false*).

Nor can you say that this ruling means ‘valid as far as the Torah is concerned,’ for in that case Rav Nachman should not have said: Rabbi Meir used to rule, but rather: It is a rule of the Torah? — After all, we come back to the opinion that Rabbi Elozar was the authority, and [we say that] where he dispenses with the requirement of *lishmah*’ is in the case where there are no witnesses at all, but if [the *get*] is signed, it must be signed with such intention. This accords with the statement of Rabbi Abba, that Rabbi Elozar admitted that a *get* which contains a flaw in itself is invalid. (3a3 – 4a1)

DAILY MASHAL

Gittin before Kiddushin

Why does *Gittin* precede *Kiddushin* in the *Shas* order. This is unusual, as laws of marriage should actually precede the laws of divorce, not vice-versa. Why is this so?

I once saw a possible answer. It is reported that when the *Netziv* closed the Volozhin Yeshiva (due to undue interference by the Russian government), he stated that one who opens a *yeshiva* must also be prepared to know when it is time to close the *yeshiva*. Perhaps the lesson of the *Gittin/Kiddushin* quandary is that one can only enter into a marriage governed by *halachic* norms and behaviors if he/she is likewise prepared to dissolve such a union, if need be, within the acceptable parameters of *halachic* behavior and practices.

The Rambam in his commentary to the *Mishnah* writes that it is in this precise order to show that this is not the logical progression.