

5 Tammuz 5783
June 24, 2023



Gittin Daf 39

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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

Is “About to be” Considered “as if”?

The *Gemora* says: Let us say that this (*whether or not a person who dedicates his slave to hekdesch has indeed made him hekdesch*) is an argument among the *Tannaim*. The *Baraisa* states: If someone consecrates his slave, he is subject to the laws of *me’ilah* (*misuse of hekdesch*) by using him. Rabban Shimon ben Gamliel says: One can use his hair. What are they arguing about? It must be about whether or not the *hekdesch* was effective!

The *Gemora* asks: If this is true, the argument should be whether he has made the slave *hekdesch* or not, not whether or not he is subject to the laws of *me’ilah*!? The *Gemora* therefore explains: Everyone agrees he is indeed *hekdesch*. Their argument is whether or not a slave is considered like land (*and therefore, he would not be subject to the laws of me’ilah*) or movable objects (*and he would*).

The *Gemora* asks: If so, why are they arguing only about his hair, they should argue about his entire body!? The *Gemora* therefore answers: Everyone actually agrees that a slave is like land. Their argument is regarding hair that is about to be shorn before the slave was pronounced *hekdesch*. One says that the hair is already considered shorn (*before the dedication to hekdesch, and therefore is subject to the laws of me’ilah*). One says that it is not considered shorn (*and therefore it is like land, and not subject to the laws of me’ilah*).

The *Gemora* says: Let us say that this argument among the *Tannaim* is based on the same principle as another argument in the following *Mishnah*. The *Mishnah* states that Rabbi Meir says: There are some things that are sometimes like land and sometimes unlike land, but the *Chachamim* do not

agree to him. What is the case? If someone says that he gave his friend ten loaded grapevines to watch, and the other claims he received only five, Rabbi Meir says that he must take an oath. [*This is known as “modeh b’miktzas,” meaning that one who partially admits, must swear on the remaining portion.*] The *Chachamim* say: Anything that is attached to the ground is like land. [*He therefore does not swear, as there is a law that one does not take such an oath regarding land.*]

And Rabbi Yosi the son of Rabbi Chanina explained that the argument above is in a case where the grapes are ready to be harvested. Rabbi Meir holds that they are considered as if they are already harvested (*and are therefore like movable objects, which require an oath of modeh b’miktzas in this case*). The *Chachamim* maintain that they are regarded as land (*and therefore an oath does not apply*). [*This is seemingly the same argument as mentioned above between the Tanna Kamma and Rabban Shimon ben Gamliel.*]

The *Gemora* answers: You may even say that Rabbi Meir agrees with the opinion above that the slaves’ hair is considered attached. Rabbi Meir said only regarding grapes that they are considered as if they are detached already, as the longer they stay on the vine (*after they are ripe*), the worse they become. However, regarding the hair of a slave that just keeps improving the longer it is attached, Rabbi Meir might agree that it is considered attached (*even when it is about to be shorn*). (39a1 – 39a3)

Ruling

Rav Chiya bar Yosef, when he ascended to *Eretz Yisroel*, said over this teaching of Rav (*that someone who declares his slave ownerless essentially has set his slave free*) before

Rabbi Yochanan. Rabbi Yochanan asked: Did Rav really say this?

The *Gemora* asks: [Why was Rabbi Yochanan so surprised?] Didn't Rabbi Yochanan himself say a similar statement? Didn't Ulla say in the name of Rabbi Yochanan that someone who proclaims his slave ownerless effectively sets his slave free, but he needs an emancipation document?

The *Gemora* answers: Rabbi Yochanan was in fact stating (*happily*), "Does Rav really agree with me?"

Others say that they did not finish the statement before Rabbi Yochanan (*and merely said that he goes free, but did not say that Rav said that an emancipation deed is required*). Rabbi Yochanan therefore said: Did Rav not say that an emancipation deed is required? This was because Rabbi Yochanan himself holds, as Ulla said in his name, that someone who proclaims his slave ownerless effectively sets his slave free, but he, nevertheless, requires an emancipation document. (39a3)

Emancipation Deed

The *Gemora* discusses the previous statement. Ulla said in the name of Rabbi Yochanan that someone who proclaims his slave ownerless effectively sets his slave free, but he, nevertheless, requires an emancipation document.

Rabbi Abba asked Ulla a question on this from a *Baraisa*. The *Baraisa* states: A convert died, leaving other Jews to take his possessions (*as he had no relatives*). If he had slaves, they acquire their freedom; whether they are minors or adults (*they acquire themselves immediately upon his death*). Abba Shaul says: The adults acquire themselves, but the minors are acquired by whoever acquires them (*they are incapable of acquiring themselves*). Rabbi Abba therefore asked: Who wrote an emancipation document for these slaves (*and yet we see they are considered free without it*)?

Ulla answered: This Rabbi (R' Abba) appears to be like someone who never learned a topic in his life. Why? Rav

Nachman explained: Ulla holds that the slaves of a convert are like his wife. Just as when he dies, his wife is "free (to remarry)" without requiring a *get*, so too, his slaves become free and do not require an emancipation document.

The *Gemora* asks: If so, this should also be the law regarding slaves of a regular Jew, not just a convert!?

The *Gemora* answers: The verse states (*regarding slaves*): *And you will bequeath them to your sons after you to inherit an inheritance.*

The *Gemora* asks: If so, if someone declares his slave to be ownerless and then dies, he should also not require an emancipation document! Why, then, does Ameimar say that such a slave has no solution?

The *Gemora* answers: Ameimar's statement is indeed difficult. (39a3 – 39a4)

Abba Shaul

Rabbi Yaakov bar Idi says in the name of Rabbi Yehoshua ben Levi: The law is like Abba Shaul. Rabbi Zeira asked Rabbi Yaakov bar Idi: Did you hear this from him explicitly, or are you merely inferring from a statement of his that this is so?

The *Gemora* asks: What (other) statement is he referring to?

Rabbi Zeira replied: It may be inferred from that which Rabbi Yehoshua ben Levi said: They asked before Rebbe: What is the law if someone says that he gives up hope of ever retrieving his slave? Rebbe replied: I say that such a slave can only be fixed (*to marry*) with a document. Rabbi Yochanan explained: What is Rebbe's reasoning? He derives this from a *gezeirah shavah* (*one of the thirteen principles of Biblical hermeneutics; it links two similar words from dissimilar verses in the Torah*) from the word "*lah*" said both by divorcing a woman and regarding a slave. Just as a woman may only be divorced with a document, so too, a slave must be divorced with a document. It is possible that one would infer from here that just like a woman who receives a *get*,

she now is removed from being forbidden to others, but it has no bearing on any monetary laws (*for a wife, does not monetarily belong to the husband*), so too, an emancipation deed for a slave releases him that he can now marry a Jewish woman, but he is not released from the monetary control of his master. [*Rashi explains why Rebbe is only referring to an adult slave; not a minor slave.*]

Rabbi Yaakov bar Idi said: And if I derived this law from here, what is the difference?

Rabbi Zeira answered: On the contrary! I would say that the opposite is to be inferred from his statement. Just like a woman who is divorced could be referring to either an adult or a minor, so too the slave could be an adult or minor.

Rabbi Yaakov said: I heard explicitly (that R' Yehoshua ben Levi agrees with Abba Shaul).

Rabbi Chiya bar Abba said in the name of Rabbi Yochanan: The law does not follow Abba Shaul.

Rabbi Zeira asked Rabbi Chiya bar Abba: Did you hear this from him explicitly, or are you merely inferring from a statement of his that this is so?

The *Gemora* asks: What (other) statement is he referring to?

Rabbi Zeira replied: It may be inferred from that which Rabbi Yehoshua ben Levi said: They asked before Rebbe: What is the law if someone says that he gives up hope of ever retrieving his slave? Rabbi replied: I say that such a slave can only be fixed (*to marry*) with a document. Rabbi Yochanan explained: What is Rebbe's reasoning? He derives this from a *gezeirah shavah* from the word "*lah*" said both by divorcing a woman and regarding a slave. You might infer from here that just like a woman who is divorced could be referring to either an adult or a minor, so too the slave could be an adult or minor!

The *Gemora* asks: If he derived this law from here what is the difference?

The *Gemora* answers: I would say that the opposite is to be inferred from his statement. This is only regarding an adult slave, like an adult woman receiving a *get*, that do not have monetary issues that must be resolved, only issues of prohibition, that are resolved by the *get*.

Rabbi Chiya bar Abba said: I heard it explicitly. (39a4 – 39b2)

Redeeming with Money

The *Gemora* above had cited Rebbe's reply: I say that such a slave can only be fixed (*to marry*) with a document.

The *Gemora* asks: Didn't Rebbe himself say in a *Baraisa* that the slave may pay his own value and become free, as it is like he is selling him? [*Evidently, if he redeems himself with money, he is permitted to marry a Jewish woman!?*]

The *Gemora* answers: Rebbe agrees that he may normally also redeem himself with money. However, now that he has been set free, this option is no longer available (*for his master does not control him monetarily any longer*).

This position excludes that of the following Tanna. The *Baraisa* states: Rabbi Shimon says in the name of Rabbi Akiva that one might think that her (*a slavewoman*) giving money will set her free just as giving a document will set her free. The verse therefore says, "And she was not redeemed." This teaches us that the entire topic (*in Vayikra 19:20*) is referring to a case where she was not set free. [*Rashi explains that it is in fact talking about a Canaanite slavewoman who was half slave, half free.*] This teaches that only a document can free her, not money. [*This is unlike Rebbe's position above.*]

Rami bar Chama said in the name of Rabbi Nachman: The law follows Rabbi Shimon. Rav Yosef bar Chama said in the name of Rabbi Yochanan: The law does not follow Rabbi Shimon.

Rav Nachman bar Yitzchak found Rava bar Sheilta by the door of the synagogue, and asked him whether or not the law followed Rabbi Shimon. Rava bar Sheilta responded: I say the law does not follow him. However, the Rabbis from Mechuza quote Rabbi Zeira as saying in the name of Rav Nachman that the law does follow him. When I went to Sura, I found Rabbi Chiya bar Avin and asked him to tell me exactly what happened that prompted people to say Rav Nachman ruled this way. He told me that there was a slavewoman whose master was deathly ill, and she came and cried before her master, "How much longer will I have to be a slavewoman?" Her master took his hat and gave it to her. He said: "Acquire this and acquire yourself." When they came before Rav Nachman (*to ask him what the law was in this situation*), he said that this action was ineffective. Those who saw this thought that this was because he held that the law follows Rabbi Shimon. However, this was incorrect; as Rav Nachman in fact held that the problem was that the vessel of the one who acquires must be used (*to make a proper "Kinyan Chalifin," the type of acquisition attempted here*).

Rav Shmuel bar Achisai said in the name of Rav Hamnuna the elder, who said in the name of Rav Yitzchak bar Ashian, who said in the name of Rav Huna, who said in the name of Rav Hamnuna: The *halachah* follows Rabbi Shimon.

The Gemora rules: This is not so, as the *halachah*, in fact, does not follow Rabbi Shimon. (39b2 – 39b4)

DAILY MASHAL

Who is the "I"?

Rabbi Yehoshua ben Levi said: They asked before Rebbe: What is the law if someone says that he gives up hope of ever retrieving his slave? Rebbe replied: I say that such a slave can only be fixed (*to marry*) with a document.

Many times in Shas, it is found that Rebbe used this terminology, "I say etc." What was his intention with these words?

Reb Yosef Engel in Beis Haotzar explains that it is known that Rebbe was a tremendously humble person. The *Gemora* in Sotah (49a) states that when Rebbe died, humility ceased. Perhaps what Rebbe was saying was that it appears to him that the *halachah* is like this-and-this, but not that it is most definitely so.

He also writes that it is clear from the seforim of the students of the Baal Shem Tov that lofty people are constantly thinking that their words and actions are not emanating from their own power and strength; rather, it is all coming from the Ribbono shel Olam. In kabbalah, the *Shechinah* is referred to as "*Ani*," "I." This is the explanation in the *Gemora* Sukkah (53a) when Hillel said, "If I am here, then everyone is here." The "I" did not refer to himself, for Hillel, we also know was extremely humble. Rather, he was referring to the *Shechinah*. This, perhaps, is what Rebbe was saying when he said, "I say." The *Shechinah* which is inside of me is saying that the *halachah* is like this.

QUESTIONS AND ANSWERS FROM YESTERDAY'S DAF

to refresh your memory

Q: If the master declares his slave ownerless, is a *get shichrur* necessary?

A: No.

Q: According to Shmuel who holds that one is prohibited against emancipating his slave, when would it be permitted?

A: For a *mitzvah*, or to prevent aveiros.

Q: For what three things will a wealthy person lose his possessions?

A: For emancipating their Canaanite slaves, for inspecting their property on *Shabbos*, and for arranging their *Shabbos* meal at the hour when the discourse is being given in the *Beis Medrash*.