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Kesuvos Daf 90

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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

If she desired it, she could [evidently] collect [payment of her kesuvah] either with the one kesuvah or with the other. May it not then be argued that this ruling presents an objection against the ruling which Rav Nachman stated in the name of Shmuel? For Rav Nachman stated in the name of Shmuel: Where two bills are issued one after the other the latter annuls the former! — Has it not been stated in connection with this ruling that Rav Pappa said: Rav Nachman in fact admits that if one has added in the [second] bill one palm-tree [it is assumed that] he has written it for the sake of that addition, so also here [it is a case] where the husband has added something for her [in the second kesuvah].

Our Rabbis taught: If [a woman] produced a letter of divorce, a kesuvah and [evidence of her husband's] death, she may, if the letter of divorce bears an earlier date than the kesuvah, collect payment for two kesuvos, but if the kesuvah bears an earlier date than the letter of divorce she may collect payment of one kesuvah only, for any man who divorces his wife and then remarries her contracts his second marriage on the condition of the first kesuvah. (89b4 – 90a1)

Mishnah

If a father married off his son when he was a minor, the kesuvah that he wrote when he was a minor is effective once he grows older, as he stayed married to her based on that kesuvah. If a convert converted with his wife, the kesuvah that they made when they were gentiles is effective, as he stayed married to her based on that kesuvah. (90a1)

Are Additions Included?

Rav Huna says: She only receives the standard one (*for a widow*) or two hundred (*for a girl who was never married*) zuz kesuvah, but does not receive the additional monies discussed in the kesuvah. Rav Yehuda says: She receives those monies as well.

The Gemora attempts to solve this argument from a Baraisa. The Baraisa states: If they (*adult or convert*) wrote new additions to the kesuvah, she receives those new additions. This implies that she only receives new additions, not old additions to the kesuvah. The Gemora answers: It is possible that the Baraisa means that she even takes the new additions.

The Gemora asks: This is not what the Baraisa states. The Baraisa states: If they (*adult or convert*) wrote new additions to the kesuvah, she receives those new additions. If they did not add anything, she only receives one or two hundred zuz. This is seemingly a strong difficulty on Rav Yehuda's position. The Gemora concludes that Rav Yehuda indeed made an incorrect inference from the Mishnah. When our Mishnah stated that “her kesuvah is valid,” Rav Yehuda thought this meant that whatever was stated in the kesuvah is valid. It really was only referring to the basic obligation of kesuvah, not whatever was in the kesuvah. (90a1 – 90a2)

WE SHALL RETURN TO YOU, HAKOSEIV LE'ISHTO

Mishnah

If a man married two wives and then died, the first wife comes before the second wife (*in collecting her kesuvah*).

The inheritors of the first wife are also before those of the second wife. If a man married a wife and she died, and then he married a second wife and he died, the second wife and her inheritors are before the inheritors of the first wife. (90a3)

Is the Seizure of a Later Creditor Valid?

The Gemora asks: Being that the Mishnah says that “the first wife is before the second wife” and it does not say that “the first wife has and the second wife does not,” the implication is that if the second wife grabs what she is owed before the first wife we do not take it away from her. This implies that if a later creditor takes before an earlier creditor, his collection is deemed valid!

The Gemora answers: In fact, the collection of a later creditor who seizes possessions before an earlier creditor is invalid. What does the Mishnah mean when it says she is “before?” It means totally (*even regarding seizure of property*), akin to the Mishnah later that says that a son is “before” a daughter (*in inheriting their father*).

The Gemora cites others who have a different approach. Being that the Mishnah does not say that if the second wife seized property before the first wife we do not take it away, this implies that if she indeed seized property we would take it away. This implies that if a later creditor takes before an earlier creditor, his collection is deemed invalid!

The Gemora answers: In fact, such a collection is deemed valid. Being that the second part of the Mishnah stated that the second wife and her inheritors are “before” the inheritors of the first wife, the first part of the Mishnah also used a terminology that the first wife is “before” the second wife. (90a3 – 90b1)

The Three Lessons

The Mishnah had stated: If he married the first one.

We learn from our Mishnah three things. Firstly, we learn that if one wife dies during his lifetime and one is alive when he dies, the children from the first wife still have a *kesuvah* for the male children, and we do not suspect they will fight (*with the second set*). How is this apparent from the Mishnah? Being that the Mishnah states “the second wife and her inheritors are before the inheritors of the first wife,” this implies that while they are before the inheritors of the first wife, the inheritors can still claim the *kesuvah* if there is any money left afterwards.

We also see that one *kesuvah* that has a value appropriate for a *kesuvah* (*a dinar of the estate*) can also allow for the validity of a second *kesuvah* (*which does not have that value as there is not two dinar in the estate*). How is this apparent from the Mishnah? Being that the Mishnah does not say that the second collection can only occur “if there is an extra *dinar* (*corresponding to this kesuvah*).”

We also see that a *kesuvah* for the male children cannot take away from property by way of a lien. If it could, then the inheritors of the first wife (*whose kesuvah is earlier than that of the second wife*) should be able to seize the property of the second wife.

Rav Ashi asked: How do we know that all of these conclusions are correct? It is possible that if one wife dies during his lifetime and one is alive when he dies, the children from the first wife no longer have a *kesuvah* for the male children. When the Mishnah says “they are before the inheritors of the first wife” it means regarding inheritance, not regarding a *kesuvah* for the male children. Perhaps you will ask the following (*if the Mishnah is discussing inheritance due to the father*): Why does the Mishnah call the sons the “inheritors of the first wife?” Being that the Mishnah addressed the second wife’s inheritors (*who are inheriting her kesuvah*) as such, it also called the sons of the first wife “her inheritors.”

Rav Ashi continues: The lesson that one *kesuvah* that has a value appropriate for a *kesuvah* can also allow for the

validity of a second *kesuvah* may also be untrue. The case of the Mishnah may simply be where there is a *dinar* for each *kesuvah*.

The Gemora states: In fact, whether a *kesuvah* for the male children is still given to the first wife's inheritors is an argument among the Tanaim. The Baraisa states: If one wife died in his lifetime and one is still alive when he dies, Ben Nanas says that the sons of the first wife can say to the sons of the second wife "You are the sons of one who owes money. Take the *kesuvah* of your mother and leave (and we will take our *kesuvah* for the male children)." Rabbi Akiva says: The *kesuvah* of the first wife jumped (at the time of the husband's death) to the inheritors of the second wife.

The Gemora asks: It seems that their argument is that one holds that if one wife dies during his lifetime and one is alive when he dies, the children from the first wife still have a *kesuvah* for the male children, and one says they do not.

Rabbah says: I found the Rabbis of Rav's Academy who were sitting and saying the following teaching: Everyone agrees that if one wife dies during his lifetime and one is alive when he dies, the children from the first wife still have a *kesuvah* for the male children. Here the argument (*between Rabbi Akiva and Ben Nanas*) is regarding whether one *kesuvah* that has a value appropriate for a *kesuvah* can also allow for the validity of a second *kesuvah*. Ben Nanas says: One *kesuvah* that has a value appropriate for a *kesuvah* can also allow for the validity of a second *kesuvah*, and even if a creditor is owed that money it can count towards validating a *kesuvah*. Rabbi Akiva says: Both another *kesuvah* and a creditor take away from making a *kesuvah* valid.

Rabbah added: I told them that everyone agrees that if a creditor is owed money the money counts towards validating a *kesuvah*. The only argument is if a *kesuvah* that has a value appropriate for a *kesuvah* can also allow for the validity of a second *kesuvah*.

Rav Yosef asked: If this is the reasoning behind their argument, why does Rabbi Akiva use the terminology "the inheritance already jumped etc.?" He should say that it depends if there is an extra *dinar*!

Rav Yosef therefore states: It seems that their argument is indeed where one wife dies during his lifetime and one is alive when he dies, whether or not the children from the first wife still have a *kesuvah* for the male children.

This is similar to another argument among the Tanaim. The Baraisa states: If he married a first wife who later died, and he then remarried and died, the sons of this one (*the Gemora will discuss which wife this is referring to*) can come after his death and collect their *Kesuvah*. Rabbi Shimon says: If there is an extra *dinar*, each can come and collect their *kesuvos*. Otherwise, they split evenly. [*The Gemora will explain this argument later.*] (90b)

INSIGHTS TO THE DAF

A Minor Getting Married

The *Mishnah* discussed a case where a minor was married off by his father. The Rishonim (Shitah Mekubetzes, Tosfos *Yevamos* 62b) bring proof from here that there is no prohibition for a minor to *get* married, for otherwise, the *Mishnah* would not have mentioned this case without informing us that it is indeed forbidden.

The Rambam, however, in Hilchos Ishus (11:6) rules that it is forbidden to marry off a minor, and it is regarded as a promiscuous cohabitation.

The Pischei Teshuva (E"H, 1:3) cites a Knesses Yechezkel, who explains the Rambam's opinion. The Rambam is referring to a case where the minor married a woman by himself, without his father. Our *Mishnah* is referring to a case where the father married him off.



The explanation for this distinction is as follows: A minor who marries a woman by himself cannot obligate himself to pay the *kesuvah* and therefore, it is regarded as a promiscuous cohabitation since we have learned that one who cohabits with his wife when she doesn't have a *kesuvah* is regarded as being involved in a promiscuous relationship. However, when the father marries him off, he has the ability to obligate himself to the *kesuvah* and there is a lien on the property; then, it is not regarded as a promiscuous cohabitation.

Inheritors Reciting Shehechiyonu when they Pay their Father's Debts

It is ruled in Shulchan Aruch (223:2) that one whose father dies should recite the blessing of *dayan ha'emes*, the truthful Judge. If there was an inheritance, he should also recite the blessing of *shehechiyonu*.

The question arises: What would be the *halacha* if there is an inheritance, but all of the money will be used to pay off the father's debts? Will the children still recite a *shehechiyonu* or not?

Our *Gemora* states: We also see that one *kesuvah* that has a value appropriate for a *kesuvah* (a *dinar* of the estate) can also allow for the validity of a second *kesuvah* (which does not have that value as there is not two *dinar* in the estate). How is this apparent from the Mishnah? Being that the Mishnah does not say that the second collection can only occur "if there is an extra *dinar* (corresponding to this *kesuvah*)."

Rashi explains: The *Mishnah* taught us that if one set of inheritors is collecting the *kesuvah* of their mother because her husband died before their mother, this payment is regarded as an inheritance for all of the father's inheritors, and will therefore be considered as the surplus for the validity of the *kesuvah* for the male children. Since all inheritors have a *mitzvah* to repay their father's debts, they are inheriting it and then paying off the other inheritors.

Rashi uses the following expression: There is no greater inheritance than the paying off of the father's debts.

DAILY MASHAL

Reb Yitzchak Zilberstein states that accordingly, the children will recite the *shehechiyonu* blessing even though they are left with nothing because there is no greater inheritance than the paying off of the father's debts.

However, he concludes that there actually is no proof from Rashi for this halachic ruling. Rashi is only explaining the reason why the *Gemora* considers it an inheritance, and that is because of the logic that there is no greater inheritance than the paying off of the father's debts. However, in respect to the *shehechiyonu* blessing, that is a blessing that is only recited when one is rejoicing. Although, one whose father dies and leaves him with an inheritance is not rejoicing at all; he would much rather that his father would not have died altogether (as the *Mishnah Berura ibid* explains), nevertheless, there is a positive result from the inheritance; that is a sufficient enough of a reason to recite the blessing (although it is mixed with pain and anguish). In this case, however, there is no positive advantage to the inheritors with this inheritance at all and therefore, they would not recite the *shehechiyonu* blessing.