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DAF Notes
Insights into the Daily Daf
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Kesuvos Daf 91

Daf Notes is currently being dedicated to the neshamot of

Moshe Raphael ben Yehoshua (Morris Stadtmauer) o"h

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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

Kesuvah Stipulation of the Male Children

[Kesuvah stipulation of the male children: "The male sons that I will have from you - they will inherit the money of your *kesuvah* in addition to their portion with their brothers."]

The Gemora had cited a Baraisa: If a man married his first wife and she died and then he married his second wife and he himself died, the sons of this wife (i.e., this seemingly refers to the second wife) may come after the death and exact their mother's kesuvah. [Rav Yosef had understood this to mean as follows: The sons of the second wife, as she was a creditor, may collect their mother's kesuvah, but the sons of the first wife are unable to collect the kesuvah stipulation of the male children, for the first wife died while the husband was still alive and the second one died after his death, and the uneven division will lead to quarrelling, like it was explained above.] Rabbi Shimon said: If there is a surplus of one dinar, these receive the kesuvah of their mother and these receive the kesuvah of their mother, but if no such surplus remains, they (all of the father's heirs) divide the remainder (after the kesuvah is paid off to the heirs of the second wife) in equal portions.

The Gemora had suggested that they differ on this principle: One master (R' Shimon) holds that where one wife died while the husband was still alive and the other after his death, the sons of the first wife are entitled to the kesuvah stipulation of the male children, and the other master (the Tanna Kamma) holds that where one wife died while the husband was still alive and the other after his death, the sons of the first wife are not entitled to the kesuvah stipulation of the male children.

The Gemora rejects this suggestion: No; all may agree that where one wife died while the husband was still alive and the other after his death, the sons of the first wife are entitled to the kesuvah stipulation of the male children, but they differ here on the question of whether or not it is necessary for the surplus dinar (that must remain after the kesuvah obligation of both wives are paid) must consist of land. One master (the Tanna Kamma) holds that land is regarded as a surplus but movables are not, and the other master (R' Shimon) holds that even movables are regarded as surplus.

The Gemora asks: Is it possible to say that this is their argument? But it was taught in a Mishnah (exactly the opposite): Rabbi Shimon says: Even if there is movable property in the estate, it is not regarded as anything until there was real property of the value of one dinar more than the total amount of the two kesuvos?

The Gemora therefore answers: Rather, here, the argument is regarding whether or not one *dinar* of pledged property (i.e., he does not possess real property, but there is an outstanding debt to the father that will be collected) is regarded as a surplus. One master (the Tanna Kamma) holds that (one dinar of) free property is sufficient (to cause the kesuvah stipulation of the male children to go into effect), but pledged property is not, whereas the other master (R' Shimon) maintains that even pledged property is sufficient.

The Gemora asks: If so (that the Baraisa is referring to a case where there was a dinar in the estate; why did the Baraisa state:) Rabbi Shimon said: If there is a surplus of one dinar? It should have stated: *because* there is a dinar left?

L'zecher Nishmas HaRav Raphael Dov ben HaRav Yosef Yechezkel Marcus O"H

The Gemora therefore answers: The argument is whether or not less than one *dinar* surplus is sufficient (to be regarded as a surplus). One master (the Tanna Kamma) holds that one dinar is sufficient; less than that – is not, whereas the other master (R' Shimon) holds that even less than a dinar is sufficient.

The Gemora asks: This is a difficult interpretation, as Rabbi Shimon explicitly said that there must be a *dinar*!?

And even if you will say that our understandings of these opinions should be reversed (*and R' Shimon is the one who says that less than a dinar is not sufficient*), but (that will not be satisfactory either, for) the *Tanna Kamma* of the Mishnah also explicitly stated that a *dinar* is necessary!? *[Rashi explains that this is referring to the Tanna Kamma of the Mishnah quoted at the beginning of the amud. The Tanna Kmama there is the same Tanna Kamma as in this Baraisa, and he mentioned there that a dinar is required.]*

The Gemora therefore answers: The argument is regarding one of the two arguments originally stated (*whether or not the surplus dinar must be from land, or perhaps movables are sufficient, or whether or not pledged property is sufficient*), with our understanding of the opinions reversed. [The Tanna Kamma deprives the sons of the first wife of her kesuvah only where there is no surplus at all, but if there is one, even though it consists of movables or mortgaged property, they collect the kesuvah obligation, whereas R' Shimon maintains that the dinar surplus must consist of land that is currently in the estate.]

Mar Zutra said in the name of Rav Pappa: The halachah is that where one wife died while the husband was still alive and the other after his death, the sons of the first wife are entitled to the kesuvah stipulation of the male children. The halachah is also that a *kesuvah* can become the surplus for the other kesuvah.

The Gemora asks: It is understandable that if he would have notified us only (the first ruling) that where one wife died while the husband was still alive and the other after his death, the sons of the first wife are entitled to the kesuvah stipulation of the male children, but he would not have notified us (the second lesson) that a *kesuvah* can become the surplus for the other kesuvah, I might have thought that if there is an extra *dinar*, yes (the kesuvah stipulation of the male children goes into effect), but if not, then it doesn't. However, let Mar Zutra teach us that a *kesuvah* can become the surplus for the other kesuvah, and I would (automatically) know that where one wife died while the husband was still alive and the other after his death, the sons of the first wife are entitled to the kesuvah stipulation of the male children!? [It is in such a case only where one kesuvah has the status of a debt, that could give rise to this law. Where both wives died during their husband's lifetime, the sons of both have obviously equal rights of inheritance and they both would be collecting the kesuvah stipulation of the male children, and the question of surplus would not be applicable at all.].

The Gemora answers: If Mar Zutra would have taught it in this manner, I would have thought that he was referring to a case where a person married three wives, and two of them died in his lifetime and one after his death, and this one that died gave birth to a girl, who does not receive an inheritance anyway. [In such a case, the sons of the first two wives would receive the kesuvah stipulation of the male children, for it could not possibly come to any quarrel, since the female child is not eligible for inheritance at all.] However, in a case where (there were only two wives and) one wife died while the husband was still alive and the other after his death, and this one that died gave birth to a son, I might say that this (if the sons of the first wife receive the kesuvah stipulation of the male children) will lead to a quarrel; this is why Mar Zutra teaches us (that even in this case, the kesuvah stipulation of the male children can be collected). (90b3 - 91a3)

Mishnah

The *Mishnah* states: If someone was married to two wives and they both died, and then he died. One set of orphans

(whose mother had the larger kesuvah) wants to collect the *kesuvah* of their mother (*and the other should then then get the kesuvah if their mother, and then they should divide the estate evenly*), and there is only enough (in the estate) for the two *kesuvos* (and there will be nothing to divide afterwards). They should split the estate evenly (without giving each set of children their mother's kesuvah). If there was a surplus *dinar*, these sons take the *kesuvah* of their mother, and these sons take the kesuvah of their mother (and the dinar which remains is divided amongst them). If the orphans (whose mother had the larger kesuvah) say, "We will add to the estate of our father another *dinar*," in order that they can collect their mother's *kesuvah*, we do not listen to them. We rather have the property evaluated in court (according to its true value).

If there were future assets coming to the estate (from the father of the deceased; i.e., their grandfather, upon the death of their father), they are not considered like actual possessions of the estate (when the person died). Rabbi Shimon says: Even if there is movable property in the estate, it is not regarded as anything until there was real property of the value of one dinar more than the total amount of the two Kesuvos. (91a3)

Property Value at Time of Death

The Gemora cites a Baraisa: If this wife had a *kesuvah* of one thousand (dinars), and this one had a kesuvah of five hundred, if there is a surplus *dinar*, these sons take the *kesuvah* of their mother, and these sons take the kesuvah of their mother. If there is not, they split the estate evenly (but not according to the kesuvos of their mothers).

The Gemora inquires: It is obvious if the property was abundant (it was worth a lot when the father died) and then decreased in value (so that there is no surplus dinar), the inheritors (of the larger kesuvah) already acquired (their share of) the estate (*as there originally was an extra dinar*). What, however, is the law if the property was meager (there was no surplus dinar when he died), and then increased in value (so that now there was a surplus dinar)?

The Gemora attempts to answer this question from the following incident: The property of Bar Tzartzur was meager (there was no surplus dinar when he died), and then increased in value (so that now there was a surplus dinar). They went before Rav Amram. Rav Amram said to them (the sons whose mother had the smaller kesuvah): Go settle with them (the sons whose mother had the larger kesuvah, for they are entitled to it), but they did not listen. Rav Amram said to them: If you don't listen, I will strike you with a thorn that does not draw blood (excommunication). He sent them to Rav Nachman. Rav Nachman said to them: Just as in the case where the property was abundant (it was worth a lot when the father died) and then decreased in value (so that there is no surplus dinar), the inheritors (of the larger kesuvah) already acquired (their share of) the estate (*as there originally was an extra dinar*), so too in the case where the property was meager (there was no surplus dinar when he died), and then increased in value (so that now there was a surplus dinar), the inheritors (of the smaller kesuvah) already acquired (their share of) the estate. (91a3 – 91b1)

Warding Off Creditors

[A mnemonic: a thousand and a hundred, the mitzvah is with a kesuvah, Yaakov established his fields, with words of protestors]

There was a person who owed one thousand zuz. He owned two mansions. He sold them both, one for five hundred zuz and the other for five hundred zuz. His creditor went and seized one of them from a buyer (as partial payment for his debt). When he was about to seize the other one, the buyer took one thousand zuz and went to him and said, "If the first mansion is worth one thousand zuz to you, fine. If not, take this thousand zuz and go away (from both mansions)."

Rami bar Chama thought to rule that this is like our Mishnah. The Mishnah stated: If the orphans (whose mother had the

larger kesuvah) say, "We will add to the estate of our father another *dinar*" (in order that they can collect their mother's *kesuvah*, we do not listen to them. We rather have the property evaluated in court according to its true value). [So too, in this case, the buyer cannot artificially inflate the value of the first mansion in order to prevent the creditor from seizing the second mansion.]

Rava told him: Is this comparable? There, the other orphans (whose mother had the smaller kesuvah) will lose (when the value of the property is being inflated); here, is there anyone losing out? He (the creditor) gave one thousand (as a loan) and he is getting one thousand!

The Gemora inquires: For how much (in a case where the creditor accepted the first mansion as payment for the total debt) does the court write the collection document (for if 'one thousand' is written, the buyer can then be reimbursed from the debtor for a thousand, although he only paid five hundred for it)?

Ravina said: For one thousand. Rav Avira said: For five hundred (*its real value*).

The law is that it should be written for five hundred. (91b1 – 91b2)

There was a person who owed one hundred zuz. He owned two small fields. He sold them both, one for fifty zuz and the other for fifty zuz. His creditor went and seized one of the fields from a buyer. When he was about to seize the other one, the buyer took one hundred zuz and went to him and said, "If the first field is worth one hundred zuz to you, fine. If not, take this hundred zuz and go away (from both fields)."

Rav Yosef thought to rule that this is like our Mishnah. The Mishnah stated: If the orphans (whose mother had the larger kesuvah) say ["We will add to the estate of our father another *dinar*" (in order that they can collect their mother's *kesuvah*, we do not listen to them. We rather have the property evaluated in court according to its true value). So too, in this case, the buyer cannot artificially inflate the value of the first field in order to prevent the creditor from seizing the second field.]

Abaye told him: Is this comparable? There, the other orphans (whose mother had the smaller kesuvah) will lose (when the value of the property is being inflated); here, is there anyone losing out? He (the creditor) gave one hundred (as a loan) and he is getting one hundred!

The Gemora inquires: For how much (in a case where the creditor accepted the first field as payment for the total debt) does the court write the collection document (for if 'one hundred' is written, the buyer can then be reimbursed from the debtor for one hundred, although he only paid fifty for it)?

Ravina said: For one hundred. Rav Avira said: For fifty (*its real value*).

The law is that it should be written for fifty. (91b2)

There was a man who owed one hundred zuz. He died, and left a small field worth fifty zuz. The creditor went and attempted to seize the field. The orphans went and gave him fifty zuz (so that he would not take the field). [After accepting the money] he attempted to seize it from them again (*for the other fifty*). They went before Abaye. Abaye said: It is a *mitzvah* for the orphans to pay the debt of their father. The first money (that you paid) was a mitzvah that you performed. [As it is a Rabbinic mitzvah, and not written explicitly in the torah, the money is not subject to collection by the creditor.] Now that he is seizing the field, he has the right to do so.

The Gemora qualifies: However, this is only if they did not say to him that the fifty zuz was money for the field (but rather, they gave it as partial payment for the debt), but if they said to him that the fifty zuz is money for the field, they have removed him entirely from the field (by buying it back from him). (91b2 – 91b3)

A person sold his mother's *kesuvah* for a pittance. [People would pay only a very small price for such a kesuvah, as the purchase is in the nature of a mere speculation, since the mother might die during the lifetime of her husband who would inherit it, or the son might die before his mother and never come into its possession. In both cases, the purchaser would lose all he paid.] He told the buyer, "If my mother comes and complains about the sale, I will not save it for you." [He was saying that he will not calm down the protest, nor will he return the money, and the sale would be nullified.] His mother died and did not complain, but then the son (as an inheritor) went and complained.

Rami bar Chama thought to say that he now takes the place of his mother (and just as she could have protested and the sale would have been nullified, so too, the son could do the same).

Rava said to him: Although he did not accept liability against his mother's protest, he did accept responsibility against his protest (and therefore, he must return the money). (91b3)

DAILY MASHAL

A Yahrtzeit

Rabbi Meir Shapiro, the founder of the Daf Hayomi passed away on the day that those who were studying the daf during that cycle were learning Kesuvos 91.

The *Gemora* states: The orphans have a *mitzvah* to pay the debt of their father.

Hundreds of Reb Meir Shapiro's students, who viewed themselves as only children of their beloved Rebbe swore by his coffin that they would continue building the illustrious Yeshiva of their Rebbe spiritually and financially. It was in this manner that they felt that they were paying the debt of their father; continuing his legacy.

And so it was. For the next six years, until the Holocaust, his Yeshiva flourished; his spirit was present in the walls of the Yeshiva, and served as a tremendous influence to all of his disciples.