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Gittin Daf 13

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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

### **Emancipation is a Liability**

[Rabbi Meir, in the Mishnah, maintained that it is disadvantageous for a woman to get divorced and for a slave to gain his freedom. Therefore, the husband or the master can still retract while the document is in the hands of the agent. The Chachamim agreed by a woman, but disagreed with respect to a slave. Their viewpoint is that it is advantageous for a slave to gain his freedom, and therefore the master cannot retract, for the agent acquires the emancipation document for the slave.]

The Gemora cites a Baraisa: Rabbi Elozar said: We said to Meir (his colleague): Is it not advantageous for the slave to gain his freedom? He replied: No, it is not, because if his master was a Kohen, he will be disqualified from eating terumah. We said back to him: But behold, if the master would desire, he could decide not to feed or sustain his slave (at all)! He said to us: If the slave of a Kohen ran away (and he could not be found to free him), or the wife of a Kohen rebelled against him (and she could not be found for him to divorce her), would they not be able to still eat terumah! This slave (if someone is acquiring the document for him), however, will not be able to eat terumah! The Chachamim said: Divorce is definitely disadvantageous for the woman, for it disqualifies her from terumah (if she was married to a Kohen) and she loses her sustenance (that the husband was obligated to provide her with).

The Gemora asks: What did they tell Rabbi Meir and what did he respond? The Gemora explains: Rabbi Meir said to them: You have answered me with regard to his food (the master has a right not to provide him with food), but you have not answered me with respect of terumah (if his master was a Kohen, he will lose the ability of eating terumah)! And

if you will answer me that the master, if he wanted, could throw the document to the slave (against his will) and thereby disqualify him from eating terumah, this is not correct because the slave can run away and the master will not have the option to free him (and therefore the slave can still eat terumah)! For if the slave of a Kohen ran away (and he could not be found to free him), or the wife of a Kohen rebelled against him (and she could not be found for him to divorce her), would they not be able to still eat terumah! This slave (if someone is acquiring the document for him), however, will not be able to eat terumah!

Rabbi Meir answered him very well!? - Rava explains the Chachamim's response in our Mishnah: It is because the slave is the master's property. The meaning is as follows: The master, if he wants, could take four zuzim from a Yisroel (selling the slave to him), which would thereby disqualify the slave from eating terumah (even if the slave runs away)!

The Gemora asks: What would Rabbi Meir say if the slave belonged to a Yisroel, and not to a Kohen? Rabbi Shmuel bar Rav Yitzchak said: Freedom for a slave is still regarded as a liability, for he will now be forbidden from having conjugal relations with a Canaanite slavewoman.

The Gemora asks: On the contrary! Now he will become permitted to marry a Jewish woman!? The Gemora answers: A slave prefers the life of license (where he can enjoy a Canaanite slavewoman); she is cheap to him, she is at his beck and call and she is promiscuous with him. (12b3 – 13a1)

### **Mishnah**

If one says, "Give this get to my wife," or he says, "Give this emancipation document to my slave," and he died, the

documents should not be given after his death. If, however, he said, "Give a *maneh* to So-and-so," and he died, the money should be given even after his death. (13a1 – 13a2)

### **Explaining the Mishnah**

Rav Yitzchak bar Shmuel bar Marsa said in the name of Rav: This *halacha* is only applicable if the money was piled and resting in a corner (*he specified which money he wanted to give as a gift*).

The *Gemora* asks: What is the case that we are referring to? If the giver was a healthy person, what difference does it make that the money was piled? The recipient did not pull them (*performing an action of acquiring the money*)! And if we are referring to a case where the giver was deathly ill, why is it necessary for the money to be piled up? The *halachah* is that the words of a deathly ill person is regarded as if they were written and given over! [*His mere words accomplish the transfer of property to the intended recipient.*]

Rav Zevid answered: The *Mishnah* is discussing a healthy person, and it is in accordance with that which Rav Huna said in the name of Rav: If one said, "You have a *maneh* of mine in your hand; give it to So-and-so," if this was said in the presence of the three of them (*the giver, the intermediary and the recipient*), he acquires it (*even without making a formal kinyan*). [*This is referred to as ma'amad shlashtan; in the presence of all three. Rav Zevid is stating that this is only effective if the maneh was being held by a custodian, for then, it is still regarded as being in the owner's possession.*]

Rav Pappa answered: The *Mishnah* is discussing a deathly ill person and it is in accordance with a different opinion of Rav. For Rav said: If a deathly ill person said, "Give a *maneh's* worth of my property to So-and-so (*and then he died*), if he designated a certain *maneh*, they give it to him. However, if a *maneh* was not designated, they do not give him anything, for perhaps the deceased person was referring to a buried *maneh* (*which we do not know where it is*).

The *Gemora* rules: We are not concerned for a buried *maneh*.

The *Gemora* asks: Why didn't Rav Pappa explain the *Mishnah* like Rav Zevid? The *Gemora* answers: Rav Pappa holds that Rav's ruling of *ma'amad shlashtan* is applicable by a deposit and by a loan (*and therefore, it would not be necessary for the coins to be piled up and resting in a corner*).

The *Gemora* asks: Why didn't Rav Zevid explain the *Mishnah* like Rav Pappa? The *Gemora* answers: Rav Zevid could not interpret our *Mishnah* to be referring to a case of a deathly ill person. His reasoning is as follows: The *Mishnah* had stated: If one says, "Give this *get* to my wife," or he says, "Give this emancipation document to my slave," and he died, the documents should not be given after his death. It may be inferred from here that if he would still be alive, they would give the documents. And they would only give it if he said, "Give it." However, if he would have merely said, "Write it," they would not write it and give it. This, says Rav Zevid, proves that we are not referring to a deathly ill person, for regarding him, they would give it even if he only said, "Write it." For we learned in a *Mishnah*: At first they said that if a man was being led out to his execution and he said, "Write a *get* for my wife," it was to be written and delivered (*even though he didn't specifically instruct them to give it; we assume that due to the situation, he forgot to say it*). Later they said that the same rule applies even to one who was leaving for a sea journey or joining a caravan across the desert. Rabbi Shimon Shezuri said: It also applies to a man who is dangerously ill.

Rav Ashi demurred: How do we know that our *Mishnah* adopts the viewpoint of Rabbi Shimon Shezuri? Perhaps it is in accordance with the *Chachamim* (*who hold that a deathly ill person must instruct the agents to give the get to his wife*)? (13a2 – 13b1)

### **Ma'amad Shlashtan**

It was stated above: Rav Huna had said in the name of Rav: If one said, "You have a *maneh* of mine in your hand; give it

to So-and-so," if this was said in the presence of the three of them (*the giver, the intermediary and the recipient*), he acquires it (*even without making a formal kinyan*). [This is referred to as *ma'amad shlashtan*; in the presence of all three.]

Rava said: It is logical that this is only effective by a deposited object, but not with respect of a loan. The *Gemora* asks: By God! Rav had surely stated this *halachah* even with respect of a loan!?

It has been stated as well: Shmuel stated in the name of Levi: If one said, "You have an outstanding loan of mine in your hand; give it to So-and-so," if this was said in the presence of the three of them, he acquires it.

The *Gemora* asks: Why (*by the case of a loan*) is this effective? [The debt is not a tangible item; how can it be transferred?] Ameimar answers: It is as if the borrower told the lender at the time of the loan, "I am pledged to you and to whoever comes in your place." [Accordingly, nothing is being transferred now during the *ma'amad shlashtan*; rather, it was an unspoken deal at the time of the loan.]

Rav Ashi said to Ameimar: According to you, it should emerge that if the lender transferred the debt (*with a ma'amad shlashtan*) to children who had not yet been born when the loan was made, they would not acquire possession? For even according to Rabbi Meir, who holds that a person can effect transactions regarding things that have not yet materialized, that is applicable only in a case where the recipient is in this world; however, one cannot transfer ownership to someone who was not born yet (*at the time of the loan*)! [This, the *Gemora* assumes, is definitely not true!] (13b)

#### INSIGHTS TO THE DAF

##### *Selling a "Run Away" Slave*

The *Gemora* explained the dispute between Rabbi Meir and the *Chachamim* as follows: The *Gemora* explains: Rabbi Meir

said to them: You have answered me with regard to his food (*the master has a right not to provide him with food*), but you have not answered me with respect of *terumah* (*if his master was a Kohen, he will lose the ability of eating terumah*)! And if you will answer me that the master, if he wanted, could throw the document to the slave (*against his will*) and thereby disqualify him from eating *terumah*, this is not correct because the slave can run away and the master will not have the option to free him (*and therefore the slave can still eat terumah*)! For if the slave of a *Kohen* ran away (*and he could not be found to free him*), or the wife of a *Kohen* rebelled against him (*and she could not be found for him to divorce her*), would they not be able to still eat *terumah*? This slave (*if someone is acquiring the document for him*), however, will not be able to eat *terumah*!

Rava explains the *Chachamim's* response in our *Mishnah*: It is because the slave is the master's property. The meaning is as follows: The master, if he wants, could take four *zuzim* from a *Yisroel* (*selling the slave to him*), which would thereby disqualify the slave from eating *terumah* (*even if the slave runs away*)!

The *Reshah* asks: How could the master sell his slave who ran away? This should be akin to one who stole an object from his friend. The owner is unable to sell it because it is not presently under his jurisdiction. Here too, the slave is not presently under the control of the owner!

He answers that here it is different. The slave fled from the master because he wants to remain a slave. He is therefore still regarded as being under the jurisdiction of his master.

Furthermore, the *halachah* is that land cannot be halachically stolen, and a slave which is compared to land has that *halachah* as well. Therefore, the slave, no matter where he is, would still be regarded as being under the control of the owner.

The Ayeles Hashachar answers: Since the slave is required to return himself to his master, it is considered as if he is still under his jurisdiction.

The Dvar Avraham writes that this question can be answered according to the Shitah Mikubetzes in Bava Kamma (33b). The Shitah says that if someone sells an item that was not under his control, but afterwards, it came into his jurisdiction, the sale is effective retroactively. Here too, if the slave is returned to the master, at that point the sale will be effective.

The Nesivos HaMishpat says that in truth, if the slave would have actually fled from his master, he would not have the ability to sell him, for he is not under his authority. However, we are referring to a case where the slave was merely hiding in order to prevent the master from handing him his emancipation document. Therefore the slave is still regarded as being under the jurisdiction of his master and the master does have the right to sell him.

#### **Rashi's Retraction**

The *Mishnah* states: If one says, "Give a *get* to my wife," or he says, "Give an emancipation document to my slave," and he died, the documents should not be given after his death.

Rashi notes that our *Mishnah* should not read, "Give **this** *get* to my wife," or "Give **this** emancipation document to my slave," rather, he merely said, "Give a *get* to my wife," or "Give an emancipation document to my slave." He instructed the agents to do so, but he did not actually give them the document. If he would have handed the document to the agents, the *Chachamim* would hold that the emancipation is effective immediately, for they maintain that it is advantageous for a slave to gain his freedom and the agents can acquire the document for him.

Tosfos (9b) points out that here, Rashi, is retracting from a position he took above. Rashi had stated that when the agents acquire the document for the slave, the slave does not gain his freedom at that time. He becomes free when the

document is delivered into his hands. The acquisition of the document accomplishes that the master may not retract any longer. Here, Rashi says that if the agents would acquire the document, the slave's emancipation would be effective immediately.

#### **DAILY MASHAL**

##### **Torah is the "Way to Go"**

Torah can either be a merit or an obligation, depending upon one's personal attitude and understanding of what counts most in life. The very fact that the Torah was accepted on behalf of all future Jewish generations without their physically being there is an indication that Torah is only a merit, at least to the soul, one which can be accepted on behalf of someone without his foreknowledge.

Our Gemora states: A slave prefers the life of license (where he can enjoy a Canaanite slavewoman); she is cheap to him, she is at his beck and call and she is promiscuous with him.

The Gemora in Kesuvos (Daf 11) seems to indicate this when discussing whether or not a Beis Din can convert a non-Jew without his awareness. The Gemora states that for a baby who has yet to transgress, conversion to Judaism is 100% a merit. However, for an adult, or, in our Gemora's language, "one who has 'tasted' transgression," it may not be a merit at all.

What the Gemora means to say is that, for the body that thinks little about ultimate fulfillment and mostly about temporal pleasure, Torah is a burden. However, for the soul that looks past the temporal and into the ultimate, Torah is the only way to go.