



Today's Daf In Review is being sent l'zecher nishmas Habachur Yechezkel Shraga A"H ben R' Avrohom Yehuda

Gittin Daf Yud Daled

- **Rav** once told **R' Acha Bardela** to give an item of **Rav's**, that **R' Acha Bardela** was holding, to a certain person, and said "I am telling you this in front of him so that I cannot retract on my instruction". Based on what **Rav** said previously, since all 3 parties were there, a true kinyan would take place, so how would he even think to say that he may be able to retract his instruction? **A:** That is what **Rav** was actually saying – since I am telling this to you in his presence, a kinyan is taking place and can therefore not be retracted.
 - **Rav** has already said this halacha, so why did he have to repeat it to **R' Acha Bardela**? **A:** The story with **R' Acha Bardela** involved an item of little value. We would have thought that the halacha only applies to a more significant sum of money. He therefore taught that it applies to small amounts as well.
- A group of gardeners once divided money and realized they had given 5 zuz extra to one of the gardeners. Instead of taking it back they instructed him to give it to the owner of the land, who was standing there as well. The owner of the land went and made a separate kinyan on the money. After this happened, the gardener with the extra 5 zuz realized that a mistake was made and the 5 zuz were rightfully his and were not extra. He went to **R' Nachman**, asking what to do, and was told that based on the kinyan of **Rav** and on the separate kinyan made, he had no choice but to give the money. **Rava** said, the gardener is saying that he never had the extra money there to effect a kinyan of **Rav**! **R' Nachman** said, if so, it is like any kinyan made in error and is therefore not effective.
- If a debtor sends money with a shaliach to his creditor, **Rav** says the debtor remains responsible for the money until it reaches the creditor, and if the debtor wants to retract, he can no longer do so. **Shmuel** says, since he remains responsible, he can retract if he wants to.
 - **Q:** Maybe the machlokes is that **Rav** holds that saying "take this" is like saying "be koneh for him" and **Shmuel** holds it is not so? **A:** It may be that all agree that saying "take this" is like saying "be koneh for him". The machlokes may be whether we say miguy (since he is responsible for it he may retract it) – **Rav** says we don't say this miguy and **Shmuel** says that we do.
 - There is a Braisa that says like **Rav**. The Braisa says if one tells someone else to "take" money to someone or to "give" money to someone for repayment on a loan or for return of a pikadon, the sender remains responsible for the money until it reaches the destination and he may not retract the instruction.
 - **R' Sheishes** was owed money and he asked **R' Yosef bar Chama** to go and get the money for him. The debtors asked **R' Yosef bar Chama** to accept responsibility for the money that was given to him. Ultimately, he decided not to accept responsibility. **R' Sheishes** told him it was smart not to take responsibility, because the debtors are the ones responsible for the money.
 - **R' Achi the son of R' Yoshiya** asked **R' Dustai bar R' Yanai** and **R' Yose bar Kipeir** to pick up a silver keili that he had by a shomer in Neharda'a. They went and got the item. The shomer then asked that they accept responsibility for the item. They said they would not do so. The shomer then asked for return of the item. **R' Dustai** agreed to return it, but **R' Yose** did not. They began to beat **R' Yose** and **R' Dustai** seemed to encourage the beating. He later explained that these people were very strong, powerful, and connected people. Therefore, although they were wrong in asking for return of the item, he agreed to do so for fear of his life.

- A Braisa says, if a shaliach is told to “take this money to so-and-so”, and he then finds out that the intended recipient has died, he should return the money to the sender. Another Braisa says he should give the money to the heirs of the intended recipient.
 - **Q:** Maybe we can say that the machlokes is that the second Braisa says “take this” is the equivalent of saying “be koneh this for him”, whereas the first Braisa says it is not the same? **A: R’ Abba bar Mamal** said, both Braisos say it is not equivalent. The first Braisa is discussing a present sent by a healthy person and the second Braisa is discussing a sender who was on his deathbed. **A2: R’ Zvid** said both Braisos are discussing a person on his deathbed. However, the first Braisa is discussing where the intended recipient was already dead when the gift was instructed to be given and the second Braisa is discussing where he died after the gift was instructed to be given. **A3: R’ Pappa** said both Braisos are discussing a healthy sender. The second Braisa is discussing where the sender died before the intended recipient, and before the gift was given, and therefore the instruction must still be carried out to the heirs of the intended recipient. The first Braisa is discussing where the intended recipient died before the sender, in which case the instruction becomes nullified.
- **Q:** Maybe we can say that whether “take” is equivalent to “be koneh” is actually a machlokes in the following Braisa. The Braisa says, if one tells a shaliach to take money to so-and-so, and the intended recipient is found to have died, the money should be returned to the sender (the **T”K** seems to say that “take” is not like “be koneh”). If the sender has died as well, **R’ Nosson and R’ Yaakov** say the money should be returned to the heirs of the sender (they agree with the **T”K** and add that we don’t say it is a mitzvah to fulfill the words of the one who has died). **Others** say the money should be given to the heirs of the intended recipient (they hold that take is equivalent to be koneh). **R’ Yehuda Hanasi in the name of R’ Yaakov in the name of R’ Meir** said it is a mitzvah to fulfill the words of one who has died (they agree with the **T”K**, but argue with **R’ Nosson and R’ Yaakov**). The **Chachomim** say the money should be split among the parties (they are unsure whether take is like be koneh and therefore say the money should be split). In **Bavel** they said that the shaliach should give the money to whoever he sees fit (they are also unsure and say that this is a better solution than splitting the money). **R’ Shimon Hanasi** then said that he was once a shaliach in this situation and was told to give the money to the heirs of the sender (he is coming to teach us an actual case of how the halacha was carried out). We see this is a matter of machlokes? **A:** It may be that all would agree that with regard to a healthy person, saying “take” is not equivalent to saying “be koneh”. The entire Braisa could be explained as arguing regarding a person on his deathbed, and whether his statement of “take” is the equivalent of his saying “be koneh”, as we find this is actually a machlokes between **R’ Elazar** (he says a healthy person and sick person are treated the same) and the **Chachomim** (they say that by a sick person, saying “take” is like saying “be koneh”).
 - **Q:** The Braisa mentions “**R’ Shimon Hanasi**”. Was he actually a Nasi, or does this mean he said it in the name of the Nasi? **A: TEIKU.**
 - **Q:** We learned that **R’ Yosef** said the halacha follows **R’ Shimon Hanasi** (and the money is to be returned to the sender’s heirs). How can that be? We know that the gift of a person on his deathbed is considered as fully given!? **A: R’ Yosef** understands the Braisa as explained initially, that the giver was a healthy person.
 - **Q:** We pasken that it is a mitzvah to fulfill the will of a dead person. If so, how can we pasken like **R’ Shimon Hanasi** and give the money back to the sender’s heirs? **A:** Change the Braisa to read that **R’ Shimon Hanasi** says to return the money to the sender, and he is only talking about a case where the sender had not died.

HADRAN ALACH PEREK HAMEIVI GET!!!