



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

Gittin Daf Lamed

MISHNA

- If someone lends money to a Kohen, to a Levi, or to a poor person, with the understanding that he will get paid back with the terumah, maaser rishon, or maaser ani that he would have given each of them, respectively, he may separate these items from his produce and keep them for the loan on the chazakah that these people are still alive, and the poor person has not become rich.
 - If they did actually die, the lender must get permission from the heirs before taking the terumah or maaser that he was going to give to them. However, if the loan was done in Beis Din, he may take the terumah and maaser even without getting permission from the heirs.

GEMARA

- **Q:** How can the lender take the terumah or maaser without it having first been received by these people? **A: Rav** said, the Mishna is discussing where the borrowers are close friends of the lender, and the lender would therefore always give his terumah and maaser to them. In such a case, the terumah and maaser is considered to belong to these people as soon as it was separated. **Shmuel** said, the Mishna is discussing where the lender gave the terumah and maaser to another person to make a kinyan for the borrowers. Therefore, they actually were koneh the terumah and maaser and the lender can take them as repayment for the loan. **Ulla** said, this follows **R' Yose**, who says that although there was no true kinyan made, the **Rabanan** treated it as if the borrowers were koneh the terumah and maaser so that the lender should be able to take the produce as repayment for the loan.
 - The others did not say like **Rav**, because our Mishna does not say it is talking about close friends. The others did not say like **Shmuel**, because the Mishna does not say that a kinyan was made. The others do not say like **Ulla**, because according to him the Mishna must follow the singular view of **R' Yose**.
- A Braisa says, if someone lends money to a Kohen, to a Levi, or to a poor person, with the understanding that he will get paid back with the terumah, maaser rishon, or maaser ani that he would have given each of them, respectively, he may separate these items from his produce and keep them for the loan on the chazakah that these people are still alive. The lender can also say that he will value the produce for purposes of repayment at the lower of the current price or the price at the time of separation (a lower price means he gets more produce as repayment), and that does not create a problem of "ribis". Also, shmitta will not cancel this loan. Also, if he wants to cancel this arrangement, he may not do so. Finally, if the lender has given up hope of collecting the loan, he may no longer separate the terumah and maaser as repayment for the loan, because they may not be separated for loans that are lost.
 - **Q:** It is obvious that the lender may set the price at any point, since this may be done for any loan!? **A:** The Braisa is teaching, that even if he did not say that the price will be set at the lowest market price, it is as if he said that, and the price will be set at the lowest market price.
 - **Q:** Why is this not considered to be ribis D'Rabanan? **A:** Since if there is no produce (e.g. they were destroyed) the borrower will not be obligated to pay back the loan (repayment was set to only be taken from the terumah and maaser), the fact that we

- set it at the lower price does not cause it to be ribis (there is risk to the lender and it is therefore viewed more as a sale than as a loan).
- Shmitta does not cancel the loan, because this loan does not fall under the umbrella of “lo yigos”, because the lender was never able to demand payment on the loan (repayment was to be taken from terumah and maaser).
 - The Braisa said that “if he wants to cancel this arrangement, he may not do so”. **R’ Pappa** said, this means that the lender may not retract on his deal. However, the Kohen may cancel this arrangement if he wants.
 - **Q:** It is obvious that if he gave up hope for collecting repayment, he may not take the terumah and maaser!? **A:** The case is where the stalks grew and the crops then dried up. We would think, since the stalks grew the crop may still bounce back and recover, and therefore he never fully gave up hope. The Braisa teaches that growth of the stalks is not enough to prevent him from giving up hope wholeheartedly.
- A Braisa says, **R’ Eliezer ben Yaakov** says, if one lends money to a Kohen or a Levi in Beis Din, and the borrower then dies, the lender may separate terumah and maaser from his produce on the account of Kohanim and Levi’in in general and then keep them for payment of the loans. Similarly, if he lends money to a poor person in Beis Din and the poor person died, the lender may separate maaser ani on account of Jewish poor people in general and then keep it for repayment of his loan. **R’ Achai** says, he may separate the maaser ani on account of all poor people in the world. [The Gemara explains, the difference between these opinions is whether we consider poor Kutim to be Jews – according to **R’ Eliezer ben Yaakov** they are not and according to **R’ Achai** they are]. If the poor person became wealthy, the lender may not keep maaser ani as repayment, and the borrower is not liable to pay back (the deal was that the lender was only going to get repaid from the maaser ani).
 - **Q:** Why is it that the **Rabanan** allowed the lender to continue taking maaser ani even after the poor person dies, but they do not allow him to continue taking the maaser after the poor person became wealthy? **A:** Death is a common occurrence, so the **Rabanan** felt the need to protect the lender against that. Becoming wealthy is not a common occurrence, and therefore there was no need to protect for a case of that happening.

MEIS TZARICH LITOL RESHUS...

- A Braisa said, **Rebbi** said, this only refers to heirs that inherit.
 - **Q:** Are there heirs that don’t inherit? **A:** **R’ Yochanan** explained, the Mishna refers to heirs that have inherited real property. In that case they would anyway be obligated to repay the loan of their father. Therefore, the **Rabanan** said that the lender may simply continue to keep the terumah or maaser.
 - **R’ Yonason** said that the lender may only keep the terumah or maaser up to the value of the land that was inherited. **R’ Yochanan** said that he make keep the terumah and maaser in excess of the value of the inherited land.
- A Braisa says, if a Yisrael tells a Levi “there is maaser rishon of yours in my hand”, we need not be concerned about the terumas maaser within it. If, however, he said to the Levi “There is a kor of maaser of yours in my possession”, we must be concerned about the terumas maaser.
 - **Abaye** explained, the first case is, if a Yisrael says to a Levi “I have maaser rishon of yours in my hand, and here is money for me to buy it from you”, we need not be concerned that the Levi used all that maaser as terumas maaser for other maaser rishon that he had, because he does not know how much maaser he is getting from this Yisrael, so could not use it for terumas maaser for elsewhere. On the other hand, the second case says, that if the Yisrael told the Levi how much maaser he has for him, we need to be concerned that the Levi is using the entire thing for terumas maaser.
 - **Q:** Is the Braisa dealing with wicked people, who would take money for the maaser and then make the whole thing assur as terumas maaser!? **A:** Rather, **R’ Mesharshiya the son of R’ Idi** said, the first case is where he tells the Levi “I have maaser of your father in my hand”, and the second case is where he says “I

have a kor of maaser of your father in my hand". In that case, when the amount is known, we are concerned that the father is the one who used it for terumas maaser, and since it is the son who is accepting the money, he doesn't know that he is selling something that is assur.

- **Q:** Typically, Levi'im who took maaser were at the high level of being "chaveirim", and such people would not take terumah for produce that was not right next to the produce being separated as terumah!? **A:** Rather, **R' Ashi** said, the case in the Braisa is where a Yisrael tells a Levi "My father told me that he has some maaser of yours in my hand", or "there is a kor of maaser of yours in my hand". In the first case we must be concerned that the father did not separate terumas maaser from the maaser (since no exact amount was given) and the Levi must remove terumas maaser before eating. When he gives the amount, we can assume that the father of the Yisrael already took off terumas maaser, and therefore the Levi does not have to separate terumas maaser before eating the maaser.
 - **Q:** Is a Yisrael allowed to remove the terumas maaser before giving the maaser to the Levi? **A:** The Braisa follows **Abba Elazar ben Gamla**, who says in a Braisa that we learn from a pasuk that the Yisrael is allowed to remove terumas maaser from the maaser.