

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

Gittin Daf Mem Gimmel

- **Q**: If a person sells his slave only for the right to collect the penalty if he is killed by an ox, is this a valid sale (the penalty is something not yet in existence) for this right or not? This is a question according to **R' Meir** (who usually holds that one can sell something that is not yet in existence), because maybe **R' Meir** only says so regarding fruit that will grow, because it is normal that it will grow. However, regarding the penalty for an ox killing a slave, since it is not usual, and even if it does happen there is no guarantee that the owner of the ox will end up paying (if one admits to guilt he becomes patur from having to pay the penalty), maybe even **R' Meir** would agree that this right cannot be sold. This is also a question according to the Rabanan who normally say that one cannot sell something not yet in existence, because maybe they only say that regarding fruit of a tree, which is actually not in existence. However, in the case of the slave's penalty, the slave is in existence and the ox is in existence, and therefore maybe they would agree that this sale would be effective. What is the halacha? A: A Braisa discusses a Kohen's slave's right to eat terumah and discusses the case of a slave who has absolutely no value. Now, if a slave can be sold for the penalty, every slave has some value (he can be sold for the penalty), and if so, how can it be said that a slave has absolutely no value? It must be that he cannot be sold for the penalty.
 - The Gemara says, that is no proof, because it may be that the Braisa is discussing a slave that is a treifa, in which case there would be no penalty collected if he were killed.
 - Q: Even such a slave has *some* value, because he can serve his master in some capacity!? A: The Braisa is discussing a slave full of boils, who is someone that the master does not even want to see.
- **Q**: If a half-freed slave gives kiddushin to a Jewish woman, does the kiddushin take effect? Even if we say that when a full Yid is mekadesh half a woman it would take effect, that may be based on the fact that he has the ability to be mekadesh the whole woman, but a slave who doesn't have that ability, may not be able to do so. Also, even if we say that when a full Yid is mekadesh half a woman it would not take effect, that may be based on the fact that he has limited the extent of his acquisition, but regarding a slave, who has done all he can, maybe it would be effective? **A**: A Braisa says, if a half-freed slave was killed by an ox, the master gets half the penalty and the slave's heirs get half of the "kofer" payment. Now, if a half-freed slave can't marry a Jew, how is it possible that he has heirs? It must be that he can marry a Jewish woman.
 - R' Ada bar Ahava said, this is no proof, because the Braisa may be talking about where the ox made the slave into a treifa (without actually killing him), in which case he must still make the payments, and when the Braisa says the payment goes to his heirs, it means that it goes to the slave himself.
 - Q: Rava said, there are 2 questions here: one, the Braisa uses the terms "heirs"; two, Reish Lakish has said that kofer only gets paid after death!? A: Rava therefore said, the Braisa means that his heirs *deserve* to get half the kofer, but since he has no heirs, the half kofer is not paid.
- **Rava** said, just as a half-freed slave can't give an effective kiddushin to a Jewish woman, similarly, a half-freed maidservant can't accept an effective kiddushin from a Jewish man.
 - **Rabbah bar R' Huna** said, just as a Jewish woman cannot accept kiddushin for half of herself, so too, a half-freed maidservant cannot accept kiddushin from a Jewish man.

- R' Chisda asked, in the case of the Jewish woman he is giving less than the full kinyan that he can give, and that is why it is not effective. However, in the case of the half-freed woman, she is accepting the fullest possible kinyan, and therefore it should be effective!? Upon hearing this, Rabbah bar R' Huna changed his view and said that the kiddushin of a half-freed woman will be effective, because of the difference explained by R' Chisda.
- R' Sheishes said, just as a Jewish man cannot give kiddushin to half a Jewish woman, so too, a Jewish man cannot give kiddushin to a half-freed maidservant. And, if you say, the case of the "shifcha charufa" is a case where a half-freed maidservant has accepted kiddushin from a Jewish slave, and we therefore see that kiddushin is effective, I will tell you as R' Yishmael says, that the pasuk is referring to a case where kiddushin was not given, but she was simply designated to be with that slave.
- **R' Chisda** said, if a half-freed maidservant accepted kiddushin from Reuven, and she was then fully freed and accepted kiddushin from his brother Shimon, and they both then died, she may be taken in yibum by their brother Levi, because she is not considered to be the wife of both these brothers (in which case yibum would not apply). The reason is, if the kiddushin to Reuven was effective, then the kiddushin to Shimon was not, and visa-versa.
- If a half-freed maidservant accepts kiddushin from Reuven, is then freed, and then accepts kiddushin from (unrelated) Shimon, **R' Yosef bar Chama in the name of R' Nachman** says, the first kiddushin is removed upon becoming free, and she is therefore married to Shimon. **R' Zeira in the name of R' Nachman** says, upon her freedom the kiddushin with Reuven becomes complete, and she remains Reuven's wife. **R' Zeira** says, the pasuk suggests like I said, because the pasuk says that the person who was mezaneh with the shifcha charufah is not put to death "ki lo chupashah" (because she was not freed). This suggests that if she was freed, she would be put to death. **Abaye** said, this is no proof according to the yeshiva of **R' Yishmael**, because they say that the pasuk is referring to a fully enslaved maidservant. According to them, the pasuk would have to mean that if she was freed, and then accepted kidushin, and then a man was mezaneh with her, he would be put to death. We can therefore understand the pasuk to mean, that even if it refers to a half-freed maidservant, still, the only time he would be put to death would be if she accepted kidushin after she was first freed.
- **R' Huna bar Katina in the name of R' Yitzchak** said, it once happened that there was a half-freed maidservant and the **Rabanan** forced the master to fully free her (just like the Mishna says must be done for a male servant).
 - **Q:** Shall we say this follows the view of **R' Yochanan ben Broka**, who says that women are also obligated to have children? **A: R' Nachman bar Yitzchak** said, it may be that there is no obligation to fully free such a woman. In that case they forced him to free her, because people were being mezaneh with her. They thought it would be better to free her so that she could get married and a husband would protect her from such behavior.

MISHNA

• If a person sells his slave to a goy or to chutz laaretz, the slave goes out free.

GEMARA

- A Braisa says, if one sells his slave to a goy, the slave goes out free and needs a get shichrur from the first master. **R' Shimon ben Gamliel** says, this is only true if he has not written the "ono" of the slave, but if he did, that acts as the get shichrur.
 - **Q:** What is "ono"? **A: R' Sheishes** said, it is a document in which he writes to the slave "when you run away from the goy, I have nothing on you" (i.e. I no longer own you).
- A Braisa says, if a Yid borrows from a goy and uses his slave as collateral, if the collateral was done according to his custom, the slave goes out free.

- **Q:** What is meant by "according to his custom"? **A: R' Huna bar Yehuda** said, it means that he places a necklace with a seal on the slave, showing that it belongs to him as collateral. Once that is done, the slave is free from the Yid.
 - Q: R' Sheishes asked, a Braisa discusses a field that is used as collateral and also discusses when the collateral was done "according to his custom". Now, this can't refer to a necklace, because that clearly doesn't apply to a field!? A: R'
 Sheishes therefore said, "according to his custom" means that a payment date was written in the document.