



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

### Bava Kamma Daf Ayin

- In **Nehardai** they said, we do not write a power of attorney for someone to collect moveable property. **Ameimar** explained to **R' Ashi**, the reason is based on **R' Yochanan**, who says that an owner can't give something away if it is not in his possession, and in order for one to be power of attorney, he must be given ownership of the item. Since he can't be given ownership, he can't be made power of attorney.
  - **Others** say, in **Nehardai** they said that we do not write a power of attorney to collect moveable property from someone who has already told Beis Din that the item belongs to him. The reason this is not done is because it looks like a lie (to create the power of attorney, the plaintiff gives all rights in the property to the shaliach who is to become the power of attorney, but the defendant has already said that the item does not belong to the plaintiff). However, if the defendant had not yet denied the claim, we would write a power of attorney.
- **Nehardai** said, if a power of attorney appointment document did not say "go to Beis Din, get the money, and keep it for yourself", it is not effective, because if he does not get an ownership stake the defendant can tell him that he has no standing to conduct the case.
  - **Abaye** said, even if he is only given a share of the money, that is sufficient, because since (miguy) he has standing for part of the case, he has standing for the entire case.
  - **Ameimar** said, if the power of attorney won the case and seized the assets for himself, we cannot take them away from him. **R' Ashi** said, since the plaintiff said he will reimburse the power of attorney for all expenses, we see that he didn't mean to give him all the money. Rather, he meant to make him into a shaliach. **Others** say that **R' Ashi** said that because he accepted all expenses, they are partners.
    - The difference between the two versions of **R' Ashi** is whether he can seize half the assets (if he is a partner he could, if he is a shaliach he cannot).
    - The Gemara paskens that he is a shaliach.

### MISHNA

- If it was established by two witnesses that a person stole and then sold or shechted the animal, or if the sale or shechita was witnessed by two other witnesses, the ganav must pay daled v'hey.
- If a ganav stole and sold the animal on Shabbos, or if he stole and sold it for avodah zarah, or if he stole and shechted it on Yom Kippur, or if he stole from his father and sold it or shechted it and his father then died, or if he stole and shechted and then made it hekdesch, in all these cases he will have to pay daled v'hey.
- If he stole and then shechted to use its meat for refuah purposes, or to feed dogs, or if he shechted and the animal was found to be a treifah, or if he shechted a chullin animal in the Azarah, in all these cases he must pay daled v'hey. **R' Shimon** says that in these last 2 cases he would be patur from paying (because the meat is not fit to be eaten and the shechita is therefore not considered to be a valid shechita).

### GEMARA

- **Q:** Our Mishna seems not to follow **R' Akiva**, because he says in a Braisa that the pasuk of "davar" teaches that testimony is only valid when it establishes the entire "matter", and in the Mishna the witnesses only testify to the theft or to the shechting, not both!? **A:** **Abaye** said, the Mishna can follow **R' Akiva**. **R' Akiva** would agree that if two people testify that a woman was married and another 2 testify that she was then mezaneh, that we would accept their testimony. The reason is, that although the second witnesses need the testimony of the first set, the first set does not need the testimony of the second set. The same is true in our Mishna.

Although the second witnesses (of the sale or shechita) need the testimony of the first set, the first set does not need the testimony of the second set.

- **Q:** What do the **Rabanan** darshen from the word “davar”? **A:** They use it to teach a case where witnesses were trying to establish a girl as being an adult, and one witness saw a hair on her knuckle and the other witness saw a hair on her stomach. The pasuk teaches that these two cannot combine for a set of witnesses that saw two hairs.
  - **Q:** That case does not even need the pasuk, because each is only testifying to one hair, meaning that there is no full testimony to even half the “matter”!? **A:** The pasuk teaches that if 2 witnesses say they saw one hair on her knuckle and 2 others say they saw one hair on her stomach, that they cannot combine for a full testimony.

GANAV UMACHAR B'SHABBOS...

- **Q:** A Braisa says that if he stole it and then sold it on Shabbos he would be patur!? **A: Rami bar Chama** said, the Braisa is talking about where as part of the sale the buyer told the ganav “cut off a branch of my fig tree for yourself (as payment), and the animal will then become koneh to me” (since he would be chayuv misah for doing so, he would be patur from paying).
  - **Q:** If the buyer would try and sue for the ganav to follow through with his delivery of the sale, Beis Din would not tell the ganav that he must do so, since the ganav is chayuv misah. If so, the sale is not considered to be a sale at all!? **A: R' Pappa** said, the case is where the buyer told the ganav “throw the animal into my chatzer, and I will thereby be koneh” (and since he is chayuv for Shabbos, he will not be chayuv to pay for the daled v'hey).
    - **Q:** This would only follow **R' Akiva**, who says that something thrown in the air is as if it has landed, and therefore, as soon as it reaches the airspace of the buyer he is chayuv for Shabbos and the sale is complete. However, according to the **Rabanan**, the sale is complete as soon as it enters the airspace, but he is not chayuv for Shabbos until it lands, so the sale should be considered a good sale (since it happened before the issur Shabbos)!? **A:** The case is where the buyer said, “I will not be koneh the animal until it lands in my chatzer”, in which case the sale and the issur happened at the same time.
    - **Rava** said, we can answer like **Rami bar Chama**. The halacha is that an animal given to a zoneh for znus may not be brought as a korbon. Now, this animal given for znus would have this status even if a person gave the animal to a zoneh who was his mother. Clearly, the mother would not be able to collect that money in court (because the man would be put to death for the act), and yet the payment gets that status as payment for a zoneh. Similarly, although the buyer couldn't sue the ganav regarding the sale (because the ganav is chayuv misah), it still has the status of a sale.