



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

### Bava Basra Daf Kuf Chuf Vuv

- **R' Huna in the name of R' Assi** said, if a bechor protests his brothers making improvements to the estate before it is divided, his protest is effective and he would receive a double portion of any improvement that they make.
  - **Rabbah** said, it would seem that **R' Assi** said this in a case where the brothers cut grapes from a vineyard or olives from a tree. However, if they made the grapes into wine or the olives into oil with the intent to be koneh, the bechor would not get a double portion of that value increase, because the brothers would be looked at as gazlanim, who only need to pay back the value of what they stole (the grapes or olives, not the wine or oil). **R' Yosef** said that even if the brothers crushed the grapes or olives into wine or oil, the bechor would get a double portion of the increase.
    - **Q:** How could **R' Yosef** say that he gets a double portion of the wine? The wine is not the same thing that was taken (i.e. grapes), and the brothers were therefore koneh it!? **A:** It is like **R' Ukva bar Chama** said elsewhere, that if the wine is ruined, the brothers would have to pay for the damage done to the grapes.
- **R' Assi** said, if a bechor took only one portion in one of the properties, it shows he is mochel his double portion.
  - **Q:** Is he mochel his double portion in that particular property, or of the entire estate? **A:** **R' Pappa in the name of Rava** said he is only mochel in that particular property, because he holds that a bechor only gets the right to the double portion once the property is divided and he therefore can only be mochel for what was now divided, and **R' Pappi in the name of Rava** said he is mochel in the entire estate, because he holds that a bechor gets his right to a double portion even before it is divided, and since he was mochel in this property it shows he was mochel is the entire estate.
    - **R' Pappa and R' Pappi** didn't hear this directly from **Rava**. Rather, they each inferred their view from **Rava's** psak in a case. There was a bechor who had one brother. The bechor took a field from their father's estate before its division and sold it without the brother's permission. The brother then died. The orphans of the brother wanted the field back (since it was sold without their father's permission). **Rava** said, the bechor's sale was invalid. **R' Pappi** held that **Rava** meant that the sale was invalid with regard to the brother's portion and with regard to the bechor's regular portion, but was effective with regard to the double portion, because the bechor has rights to the double portion even before the estate is divided. **R' Pappa** held that **Rava** meant that the sale was totally invalid, because the bechor has no rights even to his double portion before the estate is divided.
    - They sent from EY that if a bechor sells his portion before the property was divided, it is not valid even with regard to his double portion. We see from here that a bechor does not have rights to his double portion before the property is divided.
    - The Gemara paskens that the halacha is that a bechor *does* have rights to his double portion before the property is divided.
    - **Mar Zutra of Drishba** was a bechor and he divided a basket of peppers equally with his brothers, without taking a double portion. He then wanted to take a double portion from other properties in the estate. **R' Ashi** told him, since you were mochel your double portion in part of the estate, you are deemed to be mochel in all the properties of the estate.

## MISHNA

- If a man says, “my bechor shall not take a double portion of my estate”, or “one of my sons (who he names) should not inherit at all”, his words have no effect, because he has made a condition which goes against the Torah.
- If a man gives out his properties to his sons before his death, then even if he gave more to one than another, or he did not give the bechor a double portion, his words take effect. However, if he said these transfers should happen as an inheritance, his words have no effect.
  - If at any point in the document it mentions that it is being given as a gift (then even if it also says that it is an inheritance), his words take effect.

## GEMARA

- **Q:** The Mishna seems not to follow **R' Yehuda**, because he says in a Braisa regarding being mekadesh a woman that when one makes a condition against the Torah regarding a monetary condition, the condition takes effect!? **A:** In the case of the kiddushin, the woman knew she was giving up monetary rights and accepted it anyway. In our case, the son doesn't waive his rights, and therefore the condition cannot take effect.
- **R' Yosef** said, if a man says “this person is my bechor”, that person gets a double portion. If the man said “this son of mine is a bechor”, he would not get a double portion, because maybe he meant that this son is a bechor to the mother only.
  - Witnesses came to **Rabbah bar bar Chana** and said, “we know that so-and-so is a bechor”. He asked them “how do you know? If it is based on the fact that the father referred to him as “a foolish bechor”, it may be that he is only a bechor of his mother!”.
  - A person told **R' Chanina** that a particular person is a bechor. He explained, “I know this because when people would go to this person's father to treat an eye ailment the father would tell them ‘go to my son, because he is a bechor, and therefore his saliva can heal this ailment’”.
    - **Q:** How could **R' Chanina** have accepted this as proof and give the bechor a double portion? Maybe the father meant that this son was a bechor to his mother? **A:** Only a bechor to the father has saliva that is capable of healing this ailment.