



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 Ches

- **R' Abba** sent to **R' Yosef bar Chama**, if a person says to another, "you stole my slave" and the accused responds, "I did not steal him", and the accuser says, "if so, why is he with you!?", and the accused responds, "because you sold him to me" or "you gave him to me as a gift, and if you want him back, swear that the slave is yours!", and the accuser went ahead and swore, the accused cannot retract his allowing this case to be decided based on the oath (there is no such requirement to swear in halacha, and by making this offer, the accused has allowed the case to be decided in a way that he did not have to allow).
  - **Q:** What is **R' Abba** teaching us with this? A Mishna says that if a litigant says, "my father is trustworthy to me to serve as a dayan in our case", or "your father is trustworthy to me to serve as a dayan in this case" or "3 shepherds are trustworthy...", **R' Meir** says he may retract his offer and the **Rabanan** say that he may not. **R' Abba** is simply telling us the view of the **Rabanan** in this Mishna!? **A:** The chiddush is that we would think that if making an offer makes the person chayuv to pay (like in **R' Abba's** case), maybe all would agree that he may retract his offer.
- **R' Abba** sent to **R' Yosef bar Chama**, the halacha is that a creditor may collect a debt from an estate that has slaves. **R' Nachman** said, that slaves may not be used to collect a debt.
- **R' Abba** sent to **R' Yosef bar Chama**, a first cousin once removed may testify. **Rava** said one may even testify regarding his great uncle. **Mar bar R' Ashi** said one may even testify regarding his grandfather. However, we do not pasken like **Mar bar R' Ashi**.
- **R' Abba** sent to **R' Yosef bar Chama**, if a witness could testify regarding boundaries of a field, but he then became blind, he is passul to give that testimony. **Shmuel** said he could give that testimony, because he can still give identifying marks as to where the boundary is to reach, however he would not be able to testify regarding a garment (he needs to see that to testify). **R' Sheishes** said he can even testify regarding a garment, because he can give its dimensions, but he cannot testify regarding ownership of a silver or gold bar (because they all have standard dimensions). **R' Pappa** said he could even give testimony about a gold or silver bar by knowing its exact weight.
  - **Q:** A Braisa says that if a person knew of testimony and then became blind, he is passul to say the testimony. This contradicts the shittos of **Shmuel, R' Sheishes and R' Pappa!**? **TEYUFTA** of all these shittos.
- **R' Abba** sent to **R' Yosef bar Chama**, if a father says something about one of his sons, he is believed, but **R' Yochanan** said he is not believed.
  - **Q:** What did the person say? **A: Abaye** said, it means, if a person says that he wants one of his sons to inherit all of his possessions, his statement is believed, which follows the view of **R' Yochanan ben Broka**. **R' Yochanan** holds like the **Rabanan** and says that the statement would not be believed.
    - **Q: Rava** asked, if that is what is meant, we should not say the statement "is believed" or "is not believed", but should rather say "he inherits" or "he does not inherit"!? **A:** Rather, **Rava** said, **R' Abba** meant, if someone says about one of his sons, "he is the bechor", he is believed, as is the view of **R' Yehuda**. **R' Yochanan** said he is not believed, in accordance with the view of the **Rabanan**.
- **R' Abba** sent to **R' Yosef bar Chama**, if a person says, "my wife should get a portion of my estate just like one of my sons", she is entitled to a portion like the sons.
  - **Rava** said, she only gets a share of property that he owns at the time that he makes the statement. Also, her share is calculated by taking into account all sons, even ones born after the statement was made.

- **R' Abba** sent to **R' Yosef bar Chama**, if someone produces a promissory note and says that he was not yet paid anything on the note, but the borrower says he already paid half, and witnesses come and say that the entire loan was already repaid, the halacha is that the borrower swears that he paid half and the lender collects the other half only from unencumbered properties. He cannot collect from encumbered properties, because the owners of those properties can say, "we believe the witnesses who said there is no amount still owed". Even according to **R' Akiva**, who says that one who admits to a loan is like a returner of a lost object and therefore doesn't have to swear, that is only when there are no witnesses. However, where there are witnesses, we say that the borrower was afraid that the witnesses would testify for the lender and that is why he admitted to still owing part of the loan.
  - **Q: Mar bar R' Ashi** asked, it seems that the exact opposite should be true! Even according to **R' Shimon ben Elazar** who says that one who admits to a loan must swear, because he is considered to be a "modeh b'miktzas", that is only when he has no witnesses on his side, but when he does (like in this case) he is certainly considered to be like one who returns a lost object and therefore would surely not have to swear!
- **Mar Zutra in the name of R' Simi bar Ashi** darshened that the halacha in each instance follows the view that was sent by **R' Abba** to **R' Yosef bar Chama**.
  - **Q: Ravina** asked **R' Ashi**, what about the case where he argued with **R' Nachman**? We know that the halacha follows **R' Nachman** in monetary matters!? **A: R' Ashi** said, the proper version of that case is that **R' Abba** said that one may *not* collect a debt from slaves, in accordance with the view of **R' Nachman**.
    - **Q:** If so, what did **Mar Zutra** mean to exclude when he said that the halacha follows **R' Abba** in all these cases? He can't be coming to exclude the view of **Rava** who said that one can testify regarding a great uncle, because **Rava** is adding on to **R' Abba's** statement, but there is no reason to say that **R' Abba** would argue with him!? He can't be coming to exclude the view of **Mar bar R' Ashi**, who said that one can testify regarding a grandfather, because we don't pasken like **Mar bar R' Ashi**!? He can't be coming to exclude the views of **Shmuel, R' Sheishes, and R' Pappa**, because we have refuted their views!? **A:** We must say that **Mar Zutra** meant to say that we don't pasken like **R' Yochanan** (who said that a father is not believed against a chazakah) and that we don't need to be concerned for the question of **Mar bar R' Ashi** (who said that the admission to part of the loan should not require him to swear).