



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

Bava Basra Daf Mem

- **Rava in the name of R' Nachman** said, a protest must be made in front of 2 people, and the witnesses may write the protest into a document without being told to do so. A "moda'ah" (a claim that a transaction was being entered into because he was forced into it) must be done in front of two people, and the witnesses may write the moda'ah into a document without being told to do so. An admission of indebtedness must be made in front of two people, but the witnesses may not write the admission into a document without being told to do so. Chalipin must be done in front of two people, and the witnesses may write the kinyan into a document without being told to do so. Certification of documents must be done in front of 3 people (a Beis Din).
 - **Rava** said, the one question I have with the above is the statement regarding chalipin. If it is considered to be an act of Beis Din, that would explain why it may be recorded in a document, but doesn't explain why 3 people are not needed. If it is not considered to be an act of Beis Din, why can they record it without being told to do so by the party? **Rava** then said, it is not an act of Beis Din, and the reason it may be recorded without permission is because a typical kinyan chalipin is meant to be written.
 - **Rabbah and R' Yosef** said, a moda'ah is not written unless the one charged as forcing the other is someone who does not listen to Beis Din. **Abaye and Rava** argued and said that it may be written even for people "like me and you".
 - **Nehardai** said, every written moda'ah that does not say "we know that so-and-so was forced", is not a valid moda'ah.
 - **Q:** What type of forced transaction is this referring to? If it is referring to a forced get or gift, this would only have to be disclosed, and there would be no reason to specify the form of duress!? It can't refer to a sale transaction, because **Rava** has said that we don't put such a moda'ah into writing!? **A:** It refers to a sale, and **Rava** would agree that there are times when it is put into writing, as in the following case. There was a person who gave his field for 3 years to a lender as security, whereby the lender would use the field and reduce the loan by that value. After he possessed the field for 3 years, he told the owner, "If you agree to sell me the field, fine. If not, I will hide the collateral document and claim that you sold it to me". In this case **Rava** would agree that the moda'ah should be written.
- **R' Yehuda** said, if someone has a "secret gift document", he may not collect based on it.
 - **Q:** What is a "secret gift document"? **A:** **R' Yosef** said, it is where the donor tells witnesses to hide and write the document. **Others** said that **R' Yosef** said, this is when the donor did not tell the witnesses to write the document in the market or the street.
 - **Q:** What is the difference between these answers? **A:** A case where he doesn't specify anything at all to them.
 - **Rava** said, a secret gift document prevents any future transfer of the property.
 - **R' Pappa** said, **Rava** did not say this explicitly, rather we infer it from a story that took place. There was a person who went to be mekadesh a woman. The woman told him, "If you agree to give me all your possessions, I will become your wife, and if you don't, I will not". The man went to write all his possessions to her. Before he did so, his eldest son came and asked why he will be left with no possessions. The man told witnesses to go hide and write all his possessions to his son, and then write them for this woman. When the woman and the son came to Beis Din, **Rava** told them, neither of you were koneh the possessions. Now, the people there thought this was because the secret gift document

served to nullify the later transfer. However, that is not so. It is only in that case that we see he intentionally dealt the property before giving it to her, because he did not truly want to give it to her. However, in a normal case of a secret and not secret gift, clearly the donor wants to give the property to the one that is not given in secret.

- **Q:** What is the halacha if witnesses are told to write a gift document, without being specified where to do so? **A: Ravina** said it is a valid gift document, and **R' Ashi** said we are concerned that it may be considered a secret gift document. The Gemara paskens that we must be concerned that it may be considered a secret gift document.