



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

### Bava Basra Daf Mem Gimmel

- **Q: Shmuel** had said that partners may testify on behalf of each other. Why is that so? They should be passul to do so as “nogeya b’eidus”!? **A: Shmuel** was referring to a case where the partner who is testifying wrote a document in which he gave up any interest he had in the field that he is testifying about.
  - **Q:** A Braisa says that writing so in a document does not have any legal effect, and therefore the partner continues to have an interest in that field!? **A: Shmuel’s** case is referring to where the other partner made a kinyan chalipin, and was actually koneh the field that the first partner is testifying about. That is an effective means of removing the first partner from the field.
    - **Q:** The first partner still is nogeya b’eidus, because if he borrowed money before he made the kinyan chalipin, his share is available to be collected by his lender. However, if he doesn’t testify, and the field is taken away from the second partner as never having truly belonged to him, he loses the ability to have his lender collect from that field!? **A:** The case is that the first partner gave/sold the field to the second partner with achrayus. Therefore, even if his lender did collect the field, the first partner would have to pay back the second partner for the field. Under this arrangement there is no longer a reason to say that he is nogeya b’eidus.
      - **Q:** If he accepted achrayus for any case in which the field is taken from the second partner, then if the field is taken because of his lack of testimony, he will have to pay, so he is certainly nogeya b’eidus!? **A:** He accepted achrayus for any case in which the field was taken away due to his debts.
  - **Q:** Even if he gave up his interest in the property, why are we not concerned that he gave up the interest only for a short time to allow himself to testify, but will then be given the interest back? A Braisa says, if a Sefer Torah was stolen from a community and the thief was caught, no one in the city may testify in or judge this case, because they are each a partner in the Torah. Now, according to what we said, why can’t a few of them simply declare that they give up their interest in the Sefer Torah and then judge or testify in the case!? **A:** This case is different, because they all have an obligation to hear the leining from the Torah, and therefore, the only way to remove any partiality would be to move away from the city.
  - **Q:** A Braisa says, if a dying person says “give a maneh to the people of my city”, no one in the city may testify in or judge this case, because they are each a shareholder in this gift. Now, according to what we said, why can’t a few of them simply declare that they give up their interest in the gift and then judge or testify in the case!? **A:** This case is also referring to where the money was said to be used for a Sefer Torah for the city, and therefore they remain partial even if they claim to give up their interest.
  - **Q:** A Braisa says, if a dying person says “give a maneh to the poor people of my city”, no poor person in the city may testify in or judge this case. Now, according to what we said, why can’t a few of them simply declare that they give up their interest in the gift and then judge or testify in the case!? **A:** This case is also referring to where the money was said to be used for a Sefer Torah for the city, and therefore they remain partial even if they claim to give up their interest. The reason he referred to them as “poor people” is because all are considered “poor” when it comes to the need to have a Sefer Torah. **A2:** We can also say that *everyone* in the city is passul from judging or testifying this case,

because the Braisa is discussing where all the people of this city are responsible to support these poor people. Therefore, they are all partial in the matter.

- **Q:** According to the second answer, why can't some of the people give the amount that was assessed on them, thereby making them impartial, and then have them judge the case? **A:** The case is where there was no assessment, and if the gift is secured there will be no need for an assessment. **A2:** We can also say that they were assessed, but still, if the gift is secured they will have more money for the poor and their assessment and previous donations may be reduced or returned.
- **Q: Shmuel** had said that partners are considered a shomer sachar one for the other (on the partnership property that they have in their possession). Why would this be so? This is a case of watching while the owner is employed by the shomer (the other partner is also watching half the property, and as such is "working" for the first partner), in which case the shomer is patur!? **A: R' Pappa** said, the case is where the arrangement is that one partner watches today and the other tomorrow, so that when one is watching the other is not, and he is therefore not working for him at the time that he is watching.
- A Braisa says, the seller of a house or field may not testify regarding it (to keep it in the hands of his buyer if someone claims it to be his), because his achrayus obligation makes him partial. The seller of a cow or talis may testify regarding it, because there is no achrayus obligation.
  - **Q:** Why is it that the Braisa assumes that there is achrayus in the first case, but not in the second? **A: R' Sheishes** said, the first case of the Braisa is as follows. Reuvein sold a field to Levi, but Shimon claims that Reuvein stole the field from him. Yehuda now comes and claims the field from Levi. The Braisa is teaching that Shimon may not testify on behalf of Levi, because he wants the field to stay with Levi, in the hope that he can get it from him when he proves that Reuvein stole it from him. Therefore, he is considered to be partial and cannot testify for Levi.
    - **Q:** If Shimon testifies that the field belongs to Levi, how can he then claim that it does not truly belong to Levi!? **A:** He wants to testify that he knows that the field does *not* belong to Yehuda.
    - **Q:** Why can't he take whatever proof he plans to use to eventually be able to take the property away from Levi, and use that to take the field away from Yehuda, and therefore his testimony should not be viewed as being partial? **A:** We say that he feels it is easier for him to get it back from Levi, and therefore he is still viewed as being partial. **A2:** The case is that Shimon has witnesses that the land belongs to him, and Yehuda also has witnesses that the land belongs to him. In such a case, Beis Din will say that whoever possesses the land should keep it. Therefore, Shimon does not want the land to get into the possession of Yehuda.