



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

### Bava Basra Daf Ayin

- **Q: R' Acha bar Huna** asked **R' Sheishes**, what is the halacha if a seller says, "I am selling the field except for this grafted carob tree" or "except for this pruned sycamore tree"? Do we say that the buyer is not koneh that particular carob or sycamore, but is koneh the others in the field, or is he not koneh any of these species of trees in the field? **A: R' Sheishes** said, he is not koneh any of these species of trees.
  - **Q:** A Braisa says, if a seller says he is selling his field except for a particular grafted carob tree or except for a pruned sycamore tree, the buyer is not koneh. Now, presumably this means that he is not koneh that particular individual tree, but would be koneh the others!? **A: R' Sheishes** said, the Braisa means that he is not koneh any of the trees of that kind. It must be that this is the proper interpretation, because if a seller said he is selling his entire field except for a particular field, we would not say that this means the buyer is not koneh that named field but is koneh other fields not mentioned by the seller. Rather, it means he is not koneh any of the fields other than the one specifically being sold. The same thing would be with the trees, and the buyer would therefore not be koneh any of the trees.
  - **Others** say that **R' Acha bar Huna** asked **R' Sheishes** regarding a case where the seller said he is selling his field except for half of a particular carob or sycamore. Do we say that the buyer is koneh the other half, or do we say that he is koneh nothing at all? **R' Sheishes** answered that the buyer is not koneh any part of the tree.
    - **Q:** A Braisa says, if a seller says he is selling his field except for half of a particular grafted carob tree or except for half of a pruned sycamore tree, the buyer is not koneh. Now, presumably this means that he is not koneh the excluded half, but would be koneh the other half!? **A: R' Sheishes** said, the Braisa means that he is not koneh any of the tree. It must be that this is the proper interpretation, because if a seller said he is selling his entire field except for half of a particular field, we would not say that this means the buyer is not koneh that half of the excluded field but is koneh the other half. Rather, it means he is not koneh any of the field. The same thing would be with the trees, and the buyer would therefore not be koneh any part of the tree.
- **Q: R' Amram** asked **R' Chisda**, if someone deposited an item with a shomer with a document (the deposit was written into a document and signed by witnesses), and the shomer claims to have returned the item, would he be believed? Do we say that he is believed with a miguy that he could have said it was lost with an oneis and he would be patur, or do we say that the owner can say, "If you returned it, why do I still have the document that says that you still have it"? **A: R' Chisda** said he is believed.
  - **Q:** Why can't the owner say, "If you returned it, why do I still have the document that says that you still have it"? **A: R' Chisda** said, if the shomer would claim an oneis, would the owner be able to counter and say, "If you returned it, why do I still have the document that says that you still have it"? Of course not! Therefore, this counter can't be made here either.
  - **Q: R' Amram** asked, if the shomer would make a claim of oneis he would have to swear to that, so why is he believed to say that he gave it back without having to swear? **A: R' Chisda** said, here too, he would have to swear that he returned the deposited item.
  - **Q:** Maybe we can say that **R' Chisda's** halacha is the subject of a machlokes among Tanna'im? A Braisa says, if a person produces a document that shows that he invested money with a man who has died, and he presents it to the heirs for payment, **Shmuel and Karna** say that he swears that he has not been paid and collects the entire amount.

The judges of EY say that he swears and only collects half. Now, presumably all hold of the view of Neharda'ah, who say that an investment is viewed as half loan and half deposit. Based on this, the machlokes would be that **Shmuel and Karna** hold that he can even collect the half that is a deposit, because he can tell the heirs, "if it was paid back, why would I have the document!?", and the judges of EY hold that this counterclaim could not be made, like **R' Chisda** said. We see that the halacha of **R' Chisda** is the basis for the machlokes of these Tanna'im. **A:** It may be that all the Tanna'im agree with **R' Chisda**. The machlokes here is that **Shmuel and Karna** hold that if the man had paid back, he would have told his heirs so before his death. The judges of EY hold that it may be that he died suddenly, without having the chance to tell them.

- **R' Huna bar Avin** sent a ruling, that if one deposits something with a shomer, evidenced by a document, and the shomer then claims to have returned it, he is believed. Also, if one produces a document of investment to heirs, he swears and collects the entire amount written in the document.
  - **Q:** These rulings seem to contradict each other!? **A:** The case with the heirs is different, because if the man who died had paid, he would have told his heirs about the payment before he died.
- **Rava** said, the halacha is that the owner swears and collects half the amount of the investment. **Mar Zutra** said that the halacha follows **Shmuel and Karna** (that he collects the entire amount). **Ravina** said to **Mar Zutra**, "**Rava** has said that he only collects half!?" **Mar Zutra** said, we learned the machlokes in the reverse (and said that **Shmuel and Karna** said that he only collects half). Therefore, we agree with **Rava**.