



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

### Bava Basra Daf Kuf Nun Daled

VACHACHOMIM OMRIM HAMOTZI MEICHAVEIRO ALAV HARAYA...

- **Q:** What type of proof must be brought? **A: R' Huna** said he must bring proof with witnesses, and **R' Chisda and Rabbah bar R' Huna** said proof is the certification of the gift document.
  - **R' Huna** holds that the Mishna refers to witnesses, because he holds that the machlokes between **R' Meir and the Chachomim** in the Mishna is the same machlokes as that between **R' Yaakov and R' Nosson** (cited earlier), and **R' Meir** would hold like **R' Nosson**, and the **Chachomim** would hold like **R' Yaakov**. **R' Chisda and Rabbah bar R' Huna** hold that the machlokes in the Mishna is whether a document that has been admitted to by the writer must still be certified. **R' Meir** holds it does not have to be certified and the **Rabanan** hold that it does.
    - **Q:** We find that **R' Meir and the Rabanan** already argue elsewhere in a Braisa whether a document that has been admitted to by the writer must still be certified!? The Braisa says, **R' Meir** says, witnesses who authenticate their signatures on a document are not believed to then make it passul. The **Chachomim** say that they are. The Gemara elsewhere explains the machlokes in this Braisa to be regarding whether a document that has been admitted to by the writer must still be certified, so why would our Mishna have to state that machlokes again!? **A:** If we would only have that Braisa, we would say it is only there that the **Rabanan** say that the document must be certified, because it is witnesses who are undermining the validity of the document. However, in our case, where it is the writer himself, maybe we would say he is not believed to undermine the validity of the document. And, if we only had our Mishna, we would say that only in that case **R' Meir** says that he does not need to certify the document, because it is the giver himself who is undermining the document. However, in the case of the Braisa, where it is the witnesses, maybe **R' Meir** would agree that he must certify the document. That is why both cases are needed.
  - **Rabbah** also said that the Mishna refers to proof with witnesses.
    - **Q: Abaye** asked, why must it refer to proof with witnesses? It can't be based on the fact that most gift documents say that the giver is giving the gift "as he was walking in the market" (which would show that he was healthy) and this document did not say this, which therefore suggests that he was sick, because most gifts of dying people say the gift was given "as he was lying sick in bed", and since this document didn't say that either, it would suggest that he was healthy!? **A:** Since there is a suggestion each way, we say that the money should remain in the possession of the one who has it. Therefore, to remove it from the giver, they must bring proof with witnesses.
  - The same machlokes is also had between **R' Yochanan and Reish Lakish**. **R' Yochanan** said that proof must be brought with witnesses, and **Reish Lakish** said the document must be certified.
    - **Q: R' Yochanan** asked **Reish Lakish**, a Braisa says, it once happened in Bnei Brak that a son inherited an estate, sold his inheritance, and then died. The heirs of the son said the sale was not valid, because the son was a minor when he sold the inheritance. The buyers asked that the son's body be exhumed and checked to see whether he had "shte saaros". **R' Akiva** told them that they have no right to defile the son, and further, shte saaros are something that change after death, so no conclusive proof can be brought from it anyway, and therefore the

property would remain in the possession of the heirs. **R' Yochanan** now said, according to me this makes sense that **R' Akiva** initially told the buyers to bring proof with witnesses, and when they couldn't find witnesses they asked whether they can check the body for shte saaros. However, according to you (**Reish Lakish**), why couldn't they just certify the document!? **A:** The case was that the property was in the possession of the buyers, and it was the heirs who were seeking to take the property back. Therefore, they could not have the option of certifying the document. In fact, it makes sense that this was the case, because that would explain why they immediately accepted **R' Akiva's** saying that they may not defile the body (it is their family member and therefore did not want to defile the body). However, if it was the buyers who were told that, they would not have immediately accepted.

- The Gemara says, it may be that the buyers did not accept **R' Akiva's** statement, which is why **R' Akiva** had to give a second reason (that shte saaros change after death).
- **Q: Reish Lakish** asked, **Bar Kappara** taught a Braisa that says that if someone had possession of a field and a previous owner claimed that the possessor was there illegally, and the possessor produced a document showing it was sold or gifted to him, but the previous owner said that he never wrote that document, he must certify the document. If he admits to having written the document but says it was a document for show, not to create a transaction, then if there are witnesses who corroborate his claim we believe him, and if not we follow whatever the document says. Shall we say that the Braisa only follows **R' Meir**, who says that if the writer admits to having written the document it need not be certified, and not the **Rabanan** who argue and say that it still must be certified? **A: R' Yochanan** said, the Braisa can even follow the **Rabanan**, because even they agree that if the writer admits to having written the document it need not be certified.
  - **Q: Reish Lakish** asked, we have a Braisa in which they clearly argue about this topic, so how can you say that they don't argue? **A: R' Yochanan** said, in that Braisa the **Rabanan** require certification because witnesses were undermining the document. However, when it is the writer who is undermining the document, they would agree that it need not be certified.
  - **Q: Reish Lakish** asked, it was said in your name (in the case in Bnei Brak) that the family members were able to undermine the document even though they admitted to the document having been written!? **A: R' Yochanan** said, that was what **Elazar** (my talmid) said, but I never said that.
    - **Q: R' Zeira** said, although **R' Yochanan** denied having said what his talmid **R' Elazar** said, he can't deny having agreed to his rebbi **R' Yannai**, who said in the name of **Rebbi** that when a writer admits to having written the document it still needs to be certified, and **R' Yochanan** said that that is what the **Chachomim** in our Mishna mean when they say that proof must be brought. **A:** Rather, **R' Zeira** said that **R' Yochanan** could not have meant that all agree that it need not be certified. As we find that **Rabbeinu Yosef in the name of R' Yehuda in the name of Shmuel** said, that **R' Meir** says such a document would have to be certified and the **Rabanan** say it would not, and **R' Yochanan** showed that our Mishna corroborates that view. However, since it is the **Rabanan** against a singular view of **R' Meir**, it is considered to be that "everyone agrees" that it need not be certified.
      - **Q:** In our Mishna we have learned that it is the **Chachomim** who say that the document must be certified!? **A:** Reverse the shitos in the Mishna.
      - **Q:** The Braisa quoted earlier also said that it is the **Rabanan** who say that such a document must be certified!? **A:** Reverse the shitos of the Braisa.
      - **Q: R' Yochanan** said that when the Mishna says proof must be brought, it refers to proof with witnesses, so how could **R'**

**Yochanan** have said that our Mishna refers to proof by verifying the document? **A:** We must reverse the shitos of **R' Yochanan and Reish Lakish**, so that it is **R' Yochanan** who says that the Mishna refers to proof through verifying the document.

- **Q:** Does this mean we have to also reverse who asked the questions and gave the answers (in the conversation between **R' Yochanan and Reish Lakish**, where **R' Yochanan** asked on **Reish Lakish** from the story that took place in Bnei Brak)? **A:** We do not have to reverse that. **R' Yochanan** asked from that story and said, according to me that proof refers to certifying the document, it can make sense how the buyers got possession of the land. However, if proof with witnesses are needed, since they don't have witnesses, how was the land ever given to them at all? To that, **Reish Lakish** answered, that this claim of the family members that the son was a minor when he sold the land is not a good claim and that is why the buyers got the land even without witnesses. The reason it is not a good claim is that we have a chazakah that witnesses would not sign on a document that was made by a minor.