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Friday, Jun 30 2017 ■ ו' תמוז תשע"ז
בס"ד

OVERVIEW of the Daf

1) A difficult monetary ruling (cont.)

An alternative difficult ruling is suggested.

This suggestion is also refuted and evidence for the alternative explanation is cited.

A number of other possible difficult rulings are presented and rejected.

The Gemara returns to the original suggested difficult ruling and resolves what was seen initially as the difficulty with that ruling.

This explanation is unsuccessfully challenged.

2) Inheriting from a mother to pass it on to his brothers

R' Sheishes was asked whether a dead person inherits property from his mother to pass it on to his brothers.

R' Sheishes cites a Baraisa, explains the Baraisa and then develops his proof from the Baraisa that a dead man does not inherit property from his mother to pass on to his brothers.

R' Acha bar Minyomi infers from our Mishnah as well that a dead man does not inherit property from his mother to pass on to his brothers.

Abaye explains the rationale behind this ruling.

3) Disputed property

A man was selling land he purchased from Bar Sissin and a dispute arose regarding whether a particular piece of land was included in the sale or not.

R' Nachman ruled in favor of the buyer.

Rava challenged this ruling.

In another incident Rava and R' Nachman gave opposite rulings.

The Gemara resolves the contradictory rulings of R' Nachman and Rava. ■

הדרן עלך מי שמת

REVIEW and Remember

1. Is it possible for a firstborn to sell his firstborn share of an inheritance?

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2. What is the reason a son-in-law may not testify for his father-in-law?

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3. What is the significance of inheriting in the grave?

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4. What is the point of dispute between R' Nachman and Rava concerning the Bar Sissin property?

_____

Distinctive INSIGHT

When is the signature of a relative on a document valid?

דאי לא תימא הכי משה ואהרן לחותנם משום דלא מהימני הוא, אלא גזירת מלך הוא שלא יעיד על כתב ידו לחותנו

The Gemara reported on the previous עמוד that there was a halacha that was sent from Eretz Yisroel that was puzzling, but true. The Gemara attempts to identify which halacha it was that was referred to in this way.

At this point, the Gemara suggests that the difficult halacha was regarding a signature on a document. If someone signed on a document, and he subsequently became the son-in-law of one of the parties in the document, he may not testify to verify his own signature, because he is now related to one of the parties. However, others may testify regarding the authenticity of the signature. The difficulty in this is that it is strange to find a case where a person is not trusted regarding his own signature, while others are trusted.

The Gemara responds by noting that this is not at all puzzling, because a relative is not disqualified because of a lack of trust, but simply because the law of the Torah does not allow a relative to testify (גזירת מלך). In fact, this would even be the case regarding two brothers such as Moshe and Aharon testifying together, and this is certainly not a situation where there is any lack of trust.

קובץ שיעורים (#579) points out that although a relative's being disqualified from testimony is a scriptural decree, we must still understand why a signature of someone who is currently a son-in-law can be accepted when his signature was affixed on the document before he was a relative. He explains that we must differentiate between a situation where one's being disqualified is due to the possibility one might lie (where one has personal interest) and where one's being ineligible is due to גזירת מלך. The question is whether the date recorded on the document is reliable. If the signature being challenged is that of someone who has been established to be a thief, whose testimony is unacceptable, we must wonder whether the date itself is credible. Perhaps the document has been altered to re-

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Today's Daf Digest is dedicated
By Mr. and Mrs. Jonah Bruck
In loving memory of their grandmother
מרת יהודית בת ר' אייזק אברהם, ע"ה
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מרת זיסא העניא בת ר' צבי הירש הלוי,ע"ה

HALACHAH Highlight

Inheriting a grandfather's position

לא מצי אמר מכח אבוה דאבא קאתינא

He cannot say that I am coming by virtue of my grandfather

The Gemara discusses the question of whether a grandson inherits property from his grandfather directly or does he inherit it through his father. This question has bearing on another matter. Rema[1] subscribes to the position that a father bequeaths to his son his position of authority. This is based on a ruling of Rivash[2] that a son has first rights to fill his father's position as Rov. A related question discussed by Poskim is whether a son-in-law also has first rights to fill his father-in-law's position of authority. Teshuvas Avodas Hagershuni[3] writes that a son-in-law does not inherit his father-in-law's position since his right would come via his wife and being that a daughter does not inherit her father's position of authority, her husband, by extension, also has no rights to that position. Teshuvas Beis Yitzchok[4] agrees that a son-in-law is incapable of inheriting his father-in-law's position of authority through his wife but maintains that the son-in-law could inherit that position directly since positions of authority do not follow the standard laws of inheritance. When it comes to property the Torah has specific guidelines for inheritance but when it comes to positions of authority the Torah expects that a son will fill his father's position and for this matter sons-in-law could inherit the same as a son.

The next step in this question is whether a grandson inherits his maternal grandfather's position of authority. Teshuvas Beis Yitzchok[5] asserts that a grandson would inherit his maternal grandfather's position of authority even according to Avodas Hagershuni. The reason a son-in-law does not inherit the position of authority is that the position must go through the deceased's daughter and she does not inherit her father's position of authority. A grandson, however, inherits directly from the grandfather, at least according to one opinion in our Gemara and as such there is no reason he should not be able to inherit his grandfather's position. ■

1. רמ"א יו"ד סי' רמ"ה סע' כ"ב.
2. שו"ת הריב"ש סי' רע"א.
3. שו"ת עבודת הגרשוני סי' מ"ט.
4. שו"ת בית יצחק יו"ד ח"ב סי' ס"ט וע'.
5. שו"ת בית יצחק שם. ■

(Insight...continued from page 1)

flect a date before this person was determined to be a thief. The underlying suspicions about the thief's signature reflect doubts regarding the date of the document as well. However, if the witness is a relative who has married into the family, his ineligibility is not motivated by suspicion, but simply due to a גזירת מלך. There is no reason to question the validity of the date, and if we see that as of the recorded date the witness was not yet a relative, the signature is acceptable.

The Vilna Gaon (C.M. 46:#45) explains that the גזירת מלך which disqualifies a relative from testifying is that a relative has the status of the person himself about whom he testifies (כגוף אחד עם קרובו). Just as a person cannot testify about himself, he also cannot testify about his relative. ■

STORIES Off the Daf

A disputed gift

"נכסי דבר סיסין מזבנינא לך..."

A certain man felt obliged to give all his material possessions away to a close friend. Unfortunately, this meant that he could not bequeath any of his property to his son. However, his son was a wealthy man in his own right and the close friend was not. The exact boundaries of one property were delineated in the document but it also stated that all property or goods owned by the father, both those known and those that only later come to light, were acquired by the father's friend.

A short time after the father passed away, his son tried to collect a certain property from someone based on a document which showed that it had been his father's. Understandably, the father's friend claimed this property for his own, since the father had given everything to him. The son rejected his claim, however. "First of all, I am the sole heir of my father. As far as the gift document, it does not include the boundaries of this field or even mention it. Clearly this is not included in my father's generous gift."

The friend was not convinced. "But the document states that what comes to light later is included. Obviously, this field is part of the gift."

When this dispute was brought before the Rashbah, zt"l, he ruled in favor of the friend. "I do not understand on what basis the son thinks he is entitled to this property. If it is primarily because of the lack of boundaries in the document, his claim lacks substance. The only time we need to list boundaries is either to determine precisely which land is meant or exactly how much land is sold. But when there is no need for this, as in the case of a gift, or if the property's extent is well known, the boundaries of the property are not required.

"We can bring a clear proof to this from Bava Basra 159. There we find that a certain person sold the property of Bar Sisin's house to his friend. The buyer claimed that he had purchased a local property known as Bar Sisin's land, but the seller denied this, saying that property was not actually the house of Bar Sisin, it was merely called after his name. Rav Nachman awarded this property to the buyer. Now, if you are correct that boundaries are always required, why not check the boundaries? Clearly, when a known property is sold, the boundaries need not be included in the document of sale! The same is true in our case."[1] ■

1. שו"ת רשב"א, ח"ה, סי' ק"ה ■

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