

OVERVIEW of the Daf

1) An assumed liar (cont.)

Another unsuccessful attempt is made to find the source that a widow from eirusin collects a kesubah.

The Gemara abandons its search for a source that a widow from eirusin collects a kesubah and offers another reason why Abaye retracted his challenge to R' Yochanan's ruling.

2) **MISHNAH:** The Mishnah presents different documents that, if found, are not returned since there is a concern that they were written but not delivered.

3) Returning legal documents

The Gemara cites a Mishnah to challenge the inference of the Mishnah that if a person agrees that a document is valid it should be returned to the owner of the document even if it was lost for a long time.

Rabbah resolves the contradiction.

A related incident is retold.

A second related incident is presented.

R' Zeira notes a contradiction between a Mishnah and a Baraisa and resolves the contradiction.

Two different explanations of R' Zeira's position are presented.

The Gemara explains why Rabbah was not bothered by

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REVIEW and Remember

1. Why is a lost gift document not returned?

2. According to Rabbah, when is a lost גט not returned?

3. What reason did R' Huna give to explain why a lost גט should not be returned?

4. According to R' Ashi, what type of identifying mark is needed to return a lost גט?

Today's Daf Digest is dedicated
In loving memory of the yahrzeit of
ביילא בת אפרים זלמן הלוי ע"ה
by Mr. and Mrs. Alan Jay and Helene Gerber

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By Mr. Eric Rothner
In loving memory of his father
Mr. Nathan Rothner, ז"ל

Distinctive INSIGHT

R' Huna was concerned that there were two towns of שוירי
אמר רב הונא חיישינן לשני שוירי

The Mishnah taught that if a גט document is found, the finder should not return the document to the husband nor to the wife. The reason given is that we suspect that although the husband might have written it, he might have decided not to use it. This explains why he was careless and allowed it to become lost. The Gemara immediately pursues this line of thought and says that if the husband tells the finder that this was not the case, and that he simply lost it, the finder may return it to him and let him use it to divorce his wife. This seems to be the case even if a long interval of time had elapsed since it was lost.

The Gemara then contrasts this ruling with a Mishnah in Gittin (27a) regarding a messenger who lost track of the גט he was delivering. Only if he finds it immediately (לאחר) can he rely upon this document being the same גט as he lost. But if it was a longer period of time, even if he finds it we cannot assume that this is the same גט. Why, then, does our Mishnah, even after a long time being lost, automatically consider the found גט to be the same one which was lost?

Rabba answers that the Mishnah in Gittin only considers the possibility of the גט being a different one due to two factors. One is that it was found where many caravans pass. This is why we introduce the possibility of its falling from one of the many passers-by. Secondly, the names on the גט must be such that we know that there was more than one "Yosef ben Shimon" in the city. Rabba forbids returning a document only when faced with a dual factor of doubt. This is supported by a response of Rabba to R' Huna, where R' Huna did not want to return a found גט which was written in the town of שוירי, as he suspected that there might be another town with the same name. Rabba disagreed and said that it could be returned, as only one element of doubt was not enough to prevent return of the גט.

In the case of R' Huna, Rashi explains that even if the messenger says that he dropped this document, and we know that in the known town of שוירי there is no other husband with the name on this גט, we still suspect that there might be another town of שוירי. When Rashi says "we know that there is no other man with this name in this town," this suggests that without this definite information, we would be suspicious of this factor as well. In other words, R' Huna was not suspicious about two men with the same name only because this was determined as a fact. Had this not been certain, he would have needed to ascertain this as well. ■

HALACHAH Highlight

Are identifying marks reliable for Biblical matters

רב אשי מספקא ליה סימנים אי דאורייתא אי דרבנן

R' Ashi was uncertain whether identifying marks are acceptable for Biblical matters or only for Rabbinic matters

Authorities note that Rambam records contradictory rulings related to the question of whether **סימנים**—identifying marks - are Biblical or Rabbinic. In the laws of divorce¹ he rules that a lost **גט** may be returned to an agent only if he can give a distinctive identifying mark - **סימן מובהק** - but if he can provide only an ordinary identifying mark the **גט** may not be returned. This indicates that Rambam adopts a strict approach that ordinary identifying marks are not acceptable for Biblical matters. In contrast, in the laws of lost objects² he rules that one can return lost objects even if the one who lost the object can only provide ordinary identifying marks, e.g. weight, quantity, place etc. and Rambam writes that these are examples of identifying marks that are reliable for Biblical matters.

Noda B'Yehudah³ suggests that Rambam's position is that ordinary identifying marks are reliable even for Biblical matters as he indicates in the laws of lost objects, but when it comes to matters that involve **kares** he adopts a more stringent approach. Therefore, when there is a question about the validity of a **גט** we do not rely on ordinary identifying marks to permit a married woman to remarry. Avnei Nezer⁴ suggests an alternative resolution to the contradiction. He writes that there are two concerns that cause us to hesitate returning a lost object to someone who claims that it is his. One concern is that the person may be lying and the fact that he provided identifying marks is only because he had seen the object sometime before it was lost. The second con-

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cern is that someone else may have lost a similar object with the same identifying marks. In the laws of lost objects Rambam mentions that someone who claims ownership of a lost object must first provide witnesses who will testify that he is reliable. Once his credibility is established the only concern that remains is whether someone else lost a similar object and regarding this matter Rambam writes that once a person produces identifying marks it is unnecessary to be concerned that another person lost a similar looking object. In the case of the lost **גט** there is the concern that the agent is not reliable and thus ordinary identifying marks are not sufficient and distinctive identifying marks are required for the **גט** to be returned and to relieve our concerns that the agent is unreliable. ■

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R' Ashi offers an additional explanation for the Baraisa that permits returning a **גט** that was lost for a long period of time.

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1. רמב"ם פ"ג מהל' גירושין ה"א

2. רמב"ם פ"ג מהל' אבידה ה"ה

3. שו"ת נודע ביהודה מהדו"ק אה"ע סי' כ"ט ד"ה ואחר

4. שו"ת אבני נזר אה"ע זי' ע' ד"ה שוב ■

STORIES Off the Daf

A wedding interrupted

מספקא ליה סימנים אי דאורייתא אי דרבנן

Today's daf discusses distinguishing marks of lost objects.

A large crowd of devoted chassidim attended the wedding of the son of the Shinover Rav zt"l to the daughter of Rav Yehoshua of Belz, zt"l. As the father of the bride was walking with the father of the groom and the groom himself to the chuppah with an enormous entourage, the Shinover Rav surprisingly halted the procession. He had spotted a scarf that one of the throng of chassidim had obvi-

ously lost.

Immediately after he picked it up off the ground he hid the scarf under his coat and announced to the crowd that he had found a lost object. The owner was requested to come forward to claim his own. Of course, since there was such a multitude in attendance, it took some time until this announcement was circulated around and the owner finally came forward.

When he approached the Rav and claimed to have lost a scarf, the Rav asked if he had a siman that would prove that it was really his scarf. "My scarf was torn not so long ago. The Rav can still see the sign of mending near the seam where it was ripped."

The Rav took the scarf out from under his coat and spread it out on a clean surface to scrutinize it. After careful study, he noticed just such a sign existed, and with a big smile started to recite slowly with great concentration and joy the "L'sheim yichud" said before fulfilling a Torah obligation.

When he was finally finished he returned the scarf to his very inspired chassid and indicated that he was now ready to proceed with the wedding.

The Belzer Rebbe who had looked on without saying a word the whole time, quipped, "Mechutan, if Hashem sends you another mitzvah of hashavas aveidah, we will get to the chuppah tomorrow!"¹ ■

1. יג אורות מערכת הרב משינאווא