



OVERVIEW of the Daf

1) Clarifying R' Shimon's position (cont.)

The Gemara defends the challenge to the assertion that R' Shimon follows the position of R' Elazar.

The implication is unsuccessfully challenged that R' Shimon only permits the signatures of non-Jews on a גט if the names of the signatories are characteristically used only by non-Jews.

A second resolution to this challenge is recorded.

A Baraisa is cited that supports R' Shimon's position.

The opinion of R' Shimon ben Gamliel cited in the Baraisa is clarified.

2) Documents signed by non-Jews

Rafram taught Ravina that only documents from courts of non-Jews are acceptable but not if they come from unofficial courts.

Rava rules that Persian documents delivered in the presence of Jewish witnesses could be used to collect unencumbered property.

Unsuccessful challenges to this ruling are presented.

Reish Lakish inquired whether witnesses signed on a גט with non-Jewish names are assumed to be Jews or non-Jews.

R' Yochanan answered that only when the names are characteristic of idolaters is the גט valid.

Reish Lakish unsuccessfully challenges this position.

A second version of this exchange is recorded.

3) MISHNAH: R' Meir and Chachamim disagree whether someone who sent a גט or emancipation document may retract before they reached the intended party. The dispute essentially relates to whether the principle of benefiting a person in his absence (זכין לאדם שלא בפניו) applies.

4) Clarifying the Mishnah

R' Huna inferred from the Mishnah that a creditor ac-

(Continued on page 2)

Distinctive INSIGHT

Non-Jews signed on a גט

עדים החתומין על הגט ושמותיהן כשמות עובדי כוכבים

The Mishnah (10b) taught that a divorce גט with non-Jews as signatories is invalid. The opinion of R' Eliezer is that a גט is effected with the witnesses who see its being given from the husband to the wife (עידי מסירה), and he does not even need for there to be any witnesses signed on the גט at all. Nevertheless, the Gemara explained that R' Eliezer agrees that if names are recorded on the document, they must be valid witnesses. If we allowed disqualified signatures (non-Jews, or signatures that were not recorded לשמה) we might rely upon these witnesses in other cases, or we might even give this גט itself to the woman in their presence.

Reish Lakish asked Rabbi Yochanan whether we could use a גט which has non-Jews signed on it. There are several approaches of the Rishonim to explain the nature of this inquiry. Rashi explains that the question is concerning a גט brought in Eretz Yisroel, where לשמה is not an issue. Can we effect the גט based upon the opinion of R' Eliezer who says that the עידי מסירה are the critical ones? Because having non-Jews as signatories is only invalid as a precaution that we might rely upon these witnesses, if the names are clearly and obviously non-Jewish names this should not be a problem. Here, there seems to be no chance that we would mistakenly assume that these people are Jewish and that we would ask them to testify in other capacities. Rav Yochanan answered that we can validate the גט in this case where the recorded witnesses are certainly non-Jews.

Rashba notes that Rashi states this question is even according to the Rabbanan of the Mishnah who do not allow non-Jews to sign on a גט, and our case is where the names were לוקוס and לוס, which are probably non-Jews, but they might, in fact, be Jews. This slight possibility that they are Jews is enough to rely upon to recognize the validity of the גט.

Tosafos and Rosh explain that the inquiry of Reish Lakish was can we assume that the witnesses are certainly Jewish, because it is highly unlikely that non-Jews signed on a Jewish גט? Can we validate the גט based upon the recorded witnesses according to Rabbi Meir, without עידי מסירה, or according to R' Eliezer, with עידי מסירה? Rabbi Yochanan answered that we cannot validate this גט, as we must assume that they are non-Jews. The only case where it is kosher, explains Rabbi Yochanan, is when the names were לוקוס and לוס, relying upon the עידי מסירה according to the opinion of Rabbi Shimon, and where no גזירה is necessary due to the names' being obviously non-Jewish. ■

REVIEW and Remember

1. What are שמות מובהקים?

2. Why was it easy to forge Persian legal documents?

3. What is the dispute between R' Meir and Chachamim?

4. Explain התופס לבעל חוב במקום שחב לאחרים.

HALACHAH Highlight

Freeing a non-Jewish slave

האומר תנו ... ושטר שחרור זה לעבדי

One who says ... this emancipation document for my slave

Tosafos¹ notes if the appointment of an agent to deliver kiddushin involves a transgression, and we say that there is no agency for sin (ein sh'liach lidvar aveira), this would mean that the kiddushin is not valid. Thus, for example, if a kohen sent an agent to betroth a divorcée, the agency is cancelled and the kiddushin is invalid. Accordingly, Poskim ask how it is possible to appoint an agent to release a non-Jewish slave from slavery when Shmuel teaches (38a) that one who frees a non-Jewish slave violates a positive commandment. One resolution² is to assert that the discussion of appointing an agent to take the emancipation document refers to a case where it is permitted to free the slave, e.g. for the sake of a mitzvah (see Gittin 38b). Noda B'yehudah³ suggests that the one who takes the emancipation document from the owner is not acting as the agent of the slave-owner; rather he becomes the agent of the slave. Since it is to the benefit of the slave to be released from slavery it is considered as if the slave sent the agent to acquire the emancipation document on his behalf. Ketzos Hachoshen⁴ suggests that the Gemara refers to where the owner is freeing the slave out of some sense of obligation that the slave deserves to be released from slavery due to a

(Overview. Continued from page 1)

quires property that another person seizes from the debtor on his behalf and when pressed on the matter he asserted that this applies even if the seizure will put others at a disadvantage.

R' Yirmiyah disputes this conclusion.

R' Chisda asserts that the issue of whether someone can seize property for a creditor when it puts others at a disadvantage, is a matter of dispute between R' Eliezer and Rabanan. ■

debt the owner owes to the slave. Under such conditions, the owner does not violate the positive command against freeing the slave since he is not freeing him for nothing.

Another resolution is offered by Teshuvos Shoel U'meishiv⁵. He maintains that even if the agency is nullified due to the rationale that one cannot appoint an agent to transgress a prohibition, nevertheless, once the owner gives the emancipation document to the agent and tells his to give the document to the slave it is considered as if the owner has declared the slave ownerless (הפקר). Once the owner declared the slave ownerless he may no longer take him back into his possession. ■

1. תוס' בי"מ י: ד"ה דאמר.

2. עי' שו"ת נודע ביהודה מהדו"ק אה"ע סי' ע"ז ושו"ת רעק"א מהדו"ק סי' קצ"ד.

3. שו"ת נודע ביהודה הנ"ל.

4. קצות החושן סי' קפ"ב סק"ב.

5. שו"ת שואל ומשיב מהדו"ק ח"ג סי' צ"ג. ■

STORIES Off the Daf

Disguising One's True Name

שרוב ישראל שבחוו"ל שמותיהן כשמות עובדי כוכבים

The persecution of the Spanish Inquisition is well known. Jews had two choices: to convert, or to flee without selling any property or goods. Many of those who fled were heartlessly tossed off ships on which they had purchased passage.

Unfortunately, many people didn't have the character to resist the allure of keeping their money and goods even if the price for this was conversion. Many of these Jews continued to observe the Torah in secret. These unfortunates were obligated to attend church and act as

non-Jews in every way to avoid being caught, tortured, and burned at the stake. Understandably, one of the first things they dropped were their traditional Jewish names. Calling one's child a Jewish name was tantamount to a death sentence for the entire family.

Groups of Jews from Portugal managed to emigrate to a free country and reclaim their Jewish heritage. Since the authorities in Portugal had no knowledge of their return to open Judaism, their considerable assets still in Portugal remained their own.

When these Jews returned to Judaism they renounced their non-Jewish names and took Jewish names of their liking. But they had a halachic question: It was important for them to stay in touch with the people who were managing their affairs in Portugal. If they did

not use their non-Jewish names, they were in serious danger of losing their property. Could they use the non-Jewish names with which they had committed virtually every sin in the Torah to fool the non-Jews looking after their money?

This question was put to the Maharshdam, ז"ל. He replied, "Although it is a **מדת חסידות** to distance oneself from a non-Jewish name, especially those who have been through what these Jews have, nevertheless, they are definitely permitted to use non-Jewish names. This emerges clearly from Gittin 11b, where we find that 'signed Gittin from outside of the land of Israel are valid even though they are signed with non-Jewish names, since most Jews outside of the land of Israel do have non-Jewish names.'"¹ ■

¹ שו"ת מהרשד"ם חלק י' סי' קצ"ט ■