



OVERVIEW of the Daf

1) Seizing a boat

The Gemara concludes the incident of seizing the boat of a debtor after he died with a ruling from Rava that a creditor cannot seize property after the debtor dies.

Another incident involving seizing property is presented that teaches that creditors can take money and apply it towards an unrecorded debt.

Tangentially the Gemara rules that the agent must repay the debtor for the loss he caused him.

One last incident pertaining to seizing a deceased man's property is recorded.

2) Female litigants

The Gemara digresses to present several incidents where females play an important role in the outcome of the case.

3) Recovering deposits

Three incidents involving people who deposited items with others and the outcome when the guardian died suddenly without leaving instructions.

Another incident involving an attempt to recover property is presented and following this incident the Gemara provides interpretations for the instructions of the deceased.

4) Forgiving loans

Although Shmuel ruled that a creditor who sold a loan document may still forgive the loan, nevertheless, when a woman brings a loan document onto a marriage she cannot forgive the loan since her husband has an equal share of the loan.

The Gemara begins to recount a related incident. ■

REVIEW and Remember

1. How does one take possession of a boat?

2. Is it permitted to write a certification for a contract before the witnesses testify?

3. Why weren't the heirs of R' Meisha permitted to keep the pearls found in his possession?

4. Which is preferred; a neighbor or a distant relative?

Distinctive INSIGHT

Relying upon a single witness

בת רב חסדא קים לי בגוה

Rava was married to the daughter of Rav Chisda. Once, a woman came to the court of Rava, and as a result of the situation, the woman was liable to take an oath. Rav Chisda's daughter informed Rava, her husband, that she knew that that particular woman was suspect of swearing falsely. Rava accepted the information, and reversed the oath and placed it upon the woman's disputant. Usually, when an oath is called for, a defendant can swear and exempt himself from having to pay. In this case, Rava allowed the claimant to swear and collect.

Another time, when Rav Pappa and Rav Ada bar Masna were sitting in front of Rava, a document was brought before Rava for collection. Rav Pappa testified as a single witness that the document had been paid. Rava declared that one witness was inadequate to put the document in doubt. Rav Ada bar Masna wondered out loud, "Is not Rav Pappa as worthy and reliable as was the daughter of Rav Chisda [whom Rava had trusted as a single witness]?" Rava admitted that he was personally familiar that his wife would not lie, but that he was not directly and personally familiar with Rav Pappa, and he could not rely upon him as a single witness with certainty.

We see from the discussion in the Gemara that there are times when a judge can arrive at legal conclusions without two valid witnesses, and the judge can rely upon a single witness whom he knows personally to be truthful. Rambam rules accordingly (Hilchos Sanhedrin 24:1): "A judge should judge monetary matters according to what his mind leads him to believe is correct, even if he is lacking full proof to that affect. For example, if someone is liable to take an oath, and the judge is told by someone whom he trusts that this person is suspect regarding oaths, the judge should reverse the oath and administer it to the one claiming against the one suspect of taking false oaths. Why, then, does the Torah require two witnesses, if one witness is adequate? The answer is that the judge may rely upon two witnesses even in a case where he is not person-

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לע"נ גיטל רויזא בת ר' אברהם זאב הכהן
and
צבי בן ציון

HALACHAH Highlight

Tzedaka to a Torah scholar or to a relative

קרוב ותלמיד חכם תלמיד חכם קודם

If one of them is a relative and the other is a Torah scholar, the Torah scholar takes precedence.

The Netziv¹ was once asked a question related to prioritizing one's tzedaka. If a Torah scholar from the Diaspora asks for tzedaka at the same time there is a request from a poor person from Eretz Yisroel, who is given priority? Should the money be given to the one who lives in Eretz Yisroel since Shulchan Aruch² prioritizes those who live in Eretz Yisroel above those who live in the Diaspora or should precedence be given to the Torah scholar based on the principle that those who are greater are given priority?

In the course of his discussion of this question Netziv cites a dispute between Shulchan Aruch and Shach whether a father who is not a Torah scholar is given priority over a Torah scholar. Shulchan Aruch³ indicates that priority is given to the Torah scholar if the father is himself not a Torah scholar. Shach⁴, on the other hand, disagrees and demonstrates that even if the father is not a Torah scholar he has priority over the Torah scholar. This disagreement, however, is limited to the question of whether to give to one's father or Torah scholar but certainly if the question is whether to give tzedaka to a Torah scholar or another relative the Torah scholar will take priority. Netziv proves this assertion from our Gemara. Our Gemara relates that when a person on his death bed gives a gift to Tuviah and it turns

(Insight. Continued from page 1)

ally acquainted with them and he is not certain about their credibility.”

קרית ספר, in his commentary to Rambam, writes that the source for this halacha is the verse (2 Divrei Hayamim 19:6): “He said to the judges, ‘Take care in what you do, for it is not for man’s sake that you judge, but for Hashem’s, and He is with you in the matter of judgment.’” A judge can and must do what is correct in his eyes. ■

out that he has a relative named Tuviah and he is friendly with a Torah scholar named Tuviah the assumption is that he intended the money to go to the Torah scholar.

Netziv notes that the Chacham Tzvi⁵ maintains that our Gemara is not a valid precedent for the halachos of tzedaka because our Gemara discusses death bed gifts that are determined by assessing the intent of the deceased rather than tzedaka priorities that follow a different set of rules. Nevertheless, Netziv maintains that regarding the question of prioritizing a Torah scholar or a relative (other than one’s father) our Gemara is instructive and teaches that a Torah scholar takes priority. Chofetz Chaim⁶, however, cites in the name of Rav Akiva Eiger that relatives take priority over Torah scholars and includes a number of important related details that are beyond the scope of this article. ■

1. שו"ת משיב דבר ח"ב סי' מ"ז.

2. שו"ת יו"ד סי' רנ"א.

3. שו"ת שם סעי' ט"ו.

4. שו"ת שם סי' ק"י.

5. שו"ת חכם צבי סי' ע"ו.

6. ספר אהבת חסד ח"א פ"ו סעי' ז'. ■

STORIES Off the Daf

The Whole Truth, and Nothing but the Truth

ולא יהא רב פפא כבת רב חסדא בת רב חסדא קים לי בגווה מר לא קים לי בגווה

On today’s daf we find that although Rava accepted his wife’s testimony that a witness was not trustworthy, he would not accept Rav Papa’s word that a loan document had been paid. When asked why he believed his wife and not Rav Papa he replied, “I know my wife would not lie. I am not sure

about Rav Papa.”

A certain person asked Rav Yaakov Kaminetsky, zt”l, for a favor. “I am sick and need a very expensive operation. Although I can not possibly afford the medical treatment that I need, the government will not pay for it because I own a house and am considered to be in the category of one who has assets to pay for the operation and hospitalization. So I would like to ask the Rav a favor. I want to write up a document stating that I owe the Rav a giant sum of money. If I can show the government that my house is not free and clear, the entire procedure won’t cost

me a dime! After the procedure, we will nullify the document. I am asking the Rav because I trust him not to take unfair advantage of me.”

Rav Yaakov replied gently but firmly, “I cannot possibly comply with your wishes in this matter. I never say a lie, and I certainly will not commit one to writing. This is a serious prohibition and in addition it goes against my grain.

He concluded, “If I would not do this for my own benefit, how can I be expected to do so for anyone else’s benefit?” ■