

וליתני מודה רבי יהושע שדה זו שלך היתה - משנה And let the **teach us that ר"י admits if one said this field was yours, etc.**

OVERVIEW

The משנה states that ר"י admits to ר"ג ור"א that a מגו is effective in the following case. If a 'buyer' claims that he bought a field from the father of an individual,¹ the buyer is believed, since there is a הפה שאסר הוא הפה שהתיר; the buyer could have claimed that it never belonged to your father. The גמרא is now asking that this same מודה could have been taught without a 'father'. ר"י is מודה that if one says to another I bought this field from you, then the buyer is believed. He has the same הפה שאסר וכו'. Our תוספות explains why the proposed case is better than how it is presently written in the משנה.

תוספות explains that the proposed case is better -

דהוי רבנותא טפי דהוי ברי וברי -

For this is a greater novelty, since it is a case where the 'buyer' is **certain** (that he bought it) and the 'seller' is **certain** (that it once belonged to him and *he never sold it*) and nevertheless the 'buyer' is believed even against a ברי; as opposed to the case of the משנה where it is a ברי ושמא, the son cannot be certain *whether his father sold the field* to this individual or not.² In that case it is not such a great חידוש that a מגו is effective when the בעל המגו is a ברי against a שמא.

SUMMARY

There is a greater חידוש that he is believed in the case of שדה זו שלך היתה (even though it is a ברי וברי) than that he is believed in the case of שדה זו של (ברי ושמא). (where it is merely a אביך).

THINKING IT OVER

Why does not תוספות explain the גמרא's question as רש"י does;³ what advantage is there in שלך של אביך over שלך?

¹ There are no עדים that the field ever belonged to either the father or the son. The buyer had no חזקה and no שטר.

² See דף ט"ב ד"ה ומודה, that תוספות is not contradicting what he previously maintained in מוהר"ם שי"ף, for even though that the son claims with a certainty, 'it is my father's field', he cannot be certain that his father did not sell it to this מחזיק. However by שדה זו שלך היתה it is a complete ברי טענת ברי.

³ רש"י ד"ה וליתני.