

**ואי סלקא דעתך לית דינא דגוד או אגוד אפילו בשתי כריכות כולי – And if you assume that there is no rule of גא"א, then even by two scrolls, etc.**

## **OVERVIEW**

אביי cited the ruling of שמואל that by כריכות ב' we divide, in order to prove that שמואל maintains גא"א (for otherwise why do they divide). תוספות explains the proof and subsequently refutes it.

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השתא סלקא דעתך דחולקין כיון שאחד רוצה לחלוק –

**We are currently assuming** (when offering the proof that there is גא"א) **that there is a requirement to divide since** (even if only) **one of them wants to divide -**

**וב' כריכות דומיא דכרך אחד שאין כתוב באחד מה שכתוב באחר כגון יהושע ושמואל<sup>1</sup> –**

**And** (we are also assuming) **that the case of two כריכות is similar to the case of one כרך** (where the ruling is לא יחלוקו), meaning **that whatever is written in one כרך is not written in the other, for instance** one was a כרך of יהושע and the other כרך of שמואל; and if there no rule of גא"א –

**ואמאי חולקין בעל כרחם והא אינם שוין<sup>2</sup> –**

**So why must they divide against their will** (where one refuses to divide), **since the two כריכות are not equal!**

**אלא ודאי אית דינא דגוד או אגוד<sup>3</sup> –**

**But rather we must conclude that that we rule גא"א.**

asks: תוספות

**ואם תאמר אפילו אית דינא דגוד או אגוד אמאי חולקין –**

**And if you will say; even if we rule גא"א, nevertheless, why do they forcibly divide** the two ספרים –

**כיון שכתוב בזה מה שאין בזה ותרווייהו צריכי להאי ולהאי<sup>4</sup> –**

**Since what is written in one is not written in the other, so both ספרים are**

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<sup>1</sup> If we would have divided the one כרך, the contents of both halves of this כרך would have been different; therefore when we differentiate between one כרך and two כרכים it is assumed that the contents (of כרכים ב') is different (ל"ש אלא בשני כרכים שונים אבל בב' כרכים שווים חולקין, שמואל should have said, otherwise).

<sup>2</sup> See רש"י ד"ה חולקין. The one who does not want to divide can claim, one book is more valuable than the other, and I do not want to pay you, so I can have the more expensive ספר, and I do not want to receive payment from you and have the less expensive ספר. I am satisfied that they both belong to both of us.

<sup>3</sup> Therefore the one who does not want to divide has the choice of either offering a payment for the more expensive ספר or accepting that same amount and relinquish the more expensive ספר, but divide he must!

<sup>4</sup> The גמרא later (on this עמוד) states that if both partners require the services of two maids (who do different functions), there is no גא"א, since תרווייהו צריכי להאי ולהאי. The same should apply here.

**needed by both parties?!**

answers: תוספות

ויש לומר דהוי מצי למימר וליטעמך<sup>5</sup> –

**And one can say; that indeed the גמרא could have responded to this proof, by saying וליטעמך, and according to you (that א"א דינא דגו"א) is it understandable!**

corrects a textual error: תוספות

ולא גרס הכא<sup>6</sup> מה שכתוב במיעוט ספרים ואי סלקא דעתך לית ליה דינא דגו"א או אגוד –

**And the גמרא does not read here as it is written in a minority of texts; 'and if you assume there is no א"א דינא דגו"א, so –**

**כי היכי דתרווייהו צריכי להאי תרווייהו צריכי להאי –**

**Just like both are needed to one, so too both are needed for the other';** this concludes the erroneous גירסא. This גירסא is incorrect –

**דהא כל שכן דאי לא צריכי תרווייהו להאי ולהאי –**

**For certainly if both כריכות are not needed to both partners, then –**

**פריך טפי שפיר<sup>7</sup> אי לית ליה דינא דגו"א או אגוד אמאי חולקין:**

**The question of 'why divide' if there is no rule of א"א, is much stronger.**

## **SUMMARY**

The purported proof of אב"י assumed that the כריכות ב' were different ספרים and only one wanted to divide. There is no א"א if וכו' תרווייהו צריכי להאי וכו'.

## **THINKING IT OVER**

In a case of תרווייהו צריכי להאי וכו', where we do not say א"א, does that mean that there is no א"א to divide, but there is א"א for both items (as one), or there is no א"א at all (even for both items as one)?<sup>8</sup>

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<sup>5</sup> acknowledges that indeed there is no valid proof since תרווייהו צריכי להאי וכו', and the גמרא could have refuted the proof in this manner; however, the גמרא chose to give the proper explanation that they can divide only if they both agree (whether we maintain א"א or not).

<sup>6</sup> See תוס' ד"ה חולקין who concurs with רש"י.

<sup>7</sup> The intent of אב"י is to prove that שמא"ל maintains א"א (for only if we maintain א"א can we understand the ruling of שמא"ל by כריכות ב'). This proof is better if we ignore תרווייהו צריכי להאי, and assume that תרווייהו צריכי להאי, for if לא צריכי תרווייהו להאי, then even if we maintain א"א, we still cannot explain the ruling of שמא"ל (footnote # 4 & 5). However if we can assume that תרווייהו לא צריכי להאי then שמא"ל's ruling is explained if we maintain א"א. [See מהרש"א for an alternate explanation.]

<sup>8</sup> See סוכ"ד אות פ.