והאמר רבי יוחנן כולי – However, ר"י said, etc.

Overview

There is a מחלוקת between ר"א ורשב"ג, as to when we are מעלה לכהונה ע"פ ע"א. The גמרא says that we cannot assume that the מחלוקת is in a case where an ע"א was already מערער on the כהונה status; for רבי יוחנן taught that everyone agrees אין ערער פחות משנים. Therefore if there would be merely an ערער דחד, all would agree that מעלין לכהונה ע"פ ע"א. This statement of ר"י is mentioned several times in ש"ס; always in the form of a challenge: 'But ר"י maintains אין ערער פחות משנים'. It never says explicitly in what context ר"י made this statement.[1] Our תוספות will resolve this issue.

ונראה לרבינו יצחק – And the ר"י is of the opinion –

דרבי יוחנן עיקר דבריו – that the main[2] statement of ר' יוחנן concerning אין ערער – פחות משנים

אהך משנה אתמר – was taught regarding this משנה of אין מעלין לכהונה.

דקאמר דברי הכל [והא[3]] (והיינו) – and that (is) which ר"י said 'all agree' –

היינו רבי שמעון בן גמליאל ורבי אלעזר – he meant רשב"ג and ר"א; they both maintain (according to ר"י) that אין ערער פחות משנים.

דאיירו בעוררין – for they are discussing 'contesters'[4].

תוספות will explain his opinion that ר"י is discussing this משנה:

ולהכי – and therefore, since ר"י specifically maintains that רשב"ג and ר"א both agree that אין ערער פחות משנים, the גמרא -

לא קא משני הכא – does not answer here that perhaps רשב"ג ור"א are arguing over ערער דחד, and even though ר"י stated אין ערער פחות משנים –

הני מילי היכא דאיכא חזקת כשרות – these words (of ר' יוחנן) apply only **where there is a presumption of כשרות;** only in such an instance are two עדים required to revoke the חזקת כשרות –

אבל היכא דליכא חזקת כשרות – however where there is no חזקת כשרות, then ר"י **לא אמר – did not say** this ruling of אין ערער פחות משנים. The גמרא seemingly could have given this answer with the understanding that in the משנה of אין מעלין וכו' there is no חזקת כשרות[5]. Therefore ר"א can maintain ערער חד and not be in conflict with ר"י. This

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[1] Indeed the רשב"ם here comments that it was never specified what ר"י is referring to.

[2] It obviously applies to other situations as well, since the גמרא refers to this statement in various situations.

[3] See הגהות הב"ח.

[4] It may initially seem difficult to maintain that ר"י is referring to רשב"ג ור"א, since their argument entails either זילותא דבי דינא or צירוף עדות; and not concerning ערער. Nevertheless since they are אייר בעוררין, their case consists of עוררין, therefore ר"י states that it must be two עוררין and no less.

[5] There would be no need to say that our משנה is in a situation where מוחזק לן באבוה דכהן הוא. Rather there is no חזקה at all.

distinction between איכא חזקת כשרות and ליכא is a valid distinction concerning אין ערער פחות משנים –

פרק עשרה יוחסין (קידושין עג,ב) – as the גמרא **answers in כדמשני בפרק עשרה יוחסין** –

גבי נאמנת חיה לומר זה כהן – concerning the ruling that **a midwife is believed to say 'this** infant **is a כהן[6].** The explanation why the גמרא does not give the same answer here, is because the גמרא knew that ר"י –

דאמתניתין דהכא קאי – was referring to this משנה of אין מעלין וכו', when he stated that דברי הכל אין ערער פחות משנים. ר"י is clearly stating that both רשב"ג and ר"א agree that אעפ"מ.[7] Therefore we cannot say that they argue in a case of ערער חד.

תוספות has a question:

ואם תאמר כיון דאמתניתין דהכא קאי – And if you say; since ר"י is referring to this משנה of אין מעלין –

היכי פריך מיניה התם – how does the גמרא **there** in קידושין **challenge** the ruling there **from** the statement of ר"י –

ובפרק קמא דגיטין (דף ט,א ושם) – and similarly **in the first פרק of** מסכת **גיטין;** where the גמרא also challenges the presumption that it was an ערער חד[8] from the statement of ר"י. If ר"י is specifically referring to the משנה of אין מעלין, then the גמרא could not challenge the rulings in גיטין and קידושין; for –

דלמא הא דקאמר רבי יוחנן – perhaps that which ר"י said that –

אין ערער פחות משנים – there can be no ערער based on the testimony of **less than two** עדים

היינו משום דאיכא עד אחד דמכשיר – that is because in the משנה of אין מעלין, where ר"א and רשב"ג discuss how we can be מעלה לכהונה, **there is one עד who is מכשיר** this person to be a כהן[9]. In such an instance ר"י says that if there is an ע"א המכשיר, then there can be no ערער on his כשרות unless two עדים are מערער. However in the cases in מסכתות גיטין וקידושין[10] where there is no עד המכשיר, then perhaps even ר"י would agree that even an ערער דחד is a valid ערער[11] (even in cases where there is a חזקת כשרות).

תוספות answers:

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[6] The ברייתא there states that the חיה is not believed if there is an ערער on the status of the child. The גמרא there asks how can an ערער of one contradict the testimony of the חיה; ר"י says אין ערער פחות משנים. The גמרא answered that there is a difference whether there is a חזקת כשרות or not. In the case of נאמנת חיה, the infant never had a חזקת כשרות; therefore even an ערער דחד is sufficient.

[7] תוספות will therefore assume that in the משנה of אין מעלין there is a חזקת כשרות (as the גמרא shortly concludes). This will avoid any discrepancy with the גמרא in קידושין (see previous footnote).

[8] The משנה there states that if a גט is brought in א"י and there are יתקיים בחותמיו then עוררין. The גמרא asks, it cannot mean ערער דחד for ר"י maintains אעפ"מ, etc.

[9] The מחלוקת between רשב"ג ור"א is concerning מעלין לכהונה ע"פ ע"א; implying that there is an עד המכשיר.

[10] See 'Thinking it over'.

[11] If we would not assume that ר"י is referencing this משנה, then it would be difficult to maintain that ר"י is discussing only a case where there is an עד המכשיר. It is not implied in his statement. However now that תוספות maintains that ר"י is referencing this משנה, and the משנה is discussing a case of עד המכשיר, then it is implicit that ר"י's ruling may apply only if there is an עד המכשיר.

ויש לומר דהגמרא – and one can say that the גמרא that asked these questions in מסכתות גיטין וקידושין –
ידע דרבי יוחנן מיירי – knew that ר"י is discussing a particular situation –
כדמסיק – as the גמרא **concludes** that originally it was presumed that that the father of this individual was a bona fide כהן, and it was afterwards –
דיצא עליו קול – that a rumor was spread –
שהוא בן גרושה – that the individual **is the son of a divorcee;** invalidating him from the כהונה –
ואחר כך בא עד אחד דמכשיר – and afterwards an ע"א who was מכשיר came –
להסיר הקול – to remove the rumor –
ואתו בי תרי כולי – and then **two** עדים **came, etc.;** to substantiate the rumor (and finally an additional ע"א came to deny the rumor).
ובכהאי גוונא אמר רבי יוחנן דאין [ערער[12]] פחות משנים – and it is in these circumstances that ר"י said אעפ"מ. It is concerning these (two) who come to substantiate the rumor, that ר"י says that there need to be two to substantiate the rumor; otherwise the ע"א המכשיר will be believed against the rumor and the ע"א המערער.

תוספות will now conclude the answer:
ואף על גב – and even though that when the two עדים who are מערער come, the situation is –
דעד אחד שהכשיר – that the ע"א who was מכשיר -
והקול - and the rumor that denied him כהונה status; these two, the עד and the קול –
כליתנהו דמי – it is as if they do not exist; the cancel each other out. When the two עדים are מערער, it is as if there is no ע"א and there is no קול (as תוספות will shortly explain). Therefore since ר"י maintains that two עדים are required to make this ערער, it is tantamount to saying that two עדים are required for an ערער, even if there is no עד המכשיר. The עד המכשיר here, is cancelled out by the קול.

תוספות will explain why the ע"א המכשיר is cancelled out by the קול:
שהרי העד גרוע מן הקול – for the עד is inferior to the rumor (as תוספות will point out) –
אם לא החזקה – if there was **no חזקה.** Now there is a חזקה; the father is מוחזק as a כהן, therefore even though there is a קול that the son is a בן גרושה, nevertheless the ע"א המכשיר is believed. However, we believe the ע"א in spite of the קול, only in combination with the original חזקה, which assists the ע"א and conflicts with the rumor. Were we to compare the ע"א against the קול without the aid of a חזקה, then the קול will be stronger than the ע"א.
שהרי הקול פוסל – for a קול, which claims that he is a בן גרושה **will invalidate** his כהונה, even against a חזקת כשרות[13] –
והעד אינו פוסל – however one **עד**, who claims that he is a בן גרושה, **cannot invalidate** the כהונה against a חזקת כשרות[14]. This proves that a קול is stronger than an

[12] See הגהות הב"ח.
[13] This we can see from our גמרא; even though it was מוחזק באבוה דכהן הוא, nevertheless when there was a קול of בן גרושה the כהונה was voided.

ע"א. It is only because the ע"א is assisted by the חזקת כשרות of the father in our case, that we validate the כהונה. The status of this כהן (after the קול and the עד המכשיר) is as it was originally, when we only knew of the חזקת כשרות of the father, without a קול and without an עד; for the קול and the עד cancel each other out[15]. It is at this point that ר"י insists that any new ערער must consist of two עדים. This proves that אין ערער פחות משנים is valid even if there is no ע"א המכשיר.

Summary

We know that רשב"ג and ר"א are not discussing an ערער חד, since ר"י stated concerning their מחלוקת that אין ערער פחות משנים.

This ruling of אעפ"מ applies (only) if there is a חזקת כשרות, even if there is no עד המכשיר; similar to the case of מעלין לכהונה where the עד המכשיר and the קול cancel out each other.

Thinking it over

תוספות asks that we cannot compare the situation in מס' קידושין (וגיטין) to the case of ר"י, since by ר"י there is an עד המכשיר. Seemingly in מס' קידושין, there is also an עד המכשיר; the חיה who claims זה כהן. Why is it any different than the case of מעלין לכהונה?

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[14] Seemingly תוספות derives this from ר"י, who states אין ערער פחות משנים. See מהרש"ל and מהרש"א in כתובות דף כו,א תוס' ד"ה והאמר who question the validity of this assumption, that an ע"א cannot פסל במקום חזקת כשרות. This is what תוספות is trying to prove, that an ע"א cannot be פוסל (even if there is no עד המכשיר), against a חזקת כשרות. The מהרש"ל explains that we derive this (that an ע"א cannot contest a חזקת כשרות) from the גמרא's answer in קידושין, that ר"י's rule is only when there is a חזקת כשרות. This teaches us that when there is a חזקת כשרות an ע"א cannot contest it. Our תוספות is explaining how the גמרות come to the conclusion that ר"י requires ערער תרי, not on account of the contradicting ע"א, but rather on account of the חזקת כשרות. The explanation is that there is no עד המכשיר since he is cancelled by the קול. Alternately the מהרש"א explains that otherwise (if an ע"א can invalidate a חזקת כשרות), the גמרא could have said that an ע"א invalidated the כהונה (without resorting to a קול) and another עד subsequently came and was מכשיר, etc.

[15] Even though the קול is superior to the ע"א alone, nevertheless in combination with the חזקה, the קול (and the ע"א) cease[s] to function. Only the חזקת כשרות remains, which validates the כהונה.