

הא אית לי סהדי דחזיוה גבך – But I have witnesses who saw it by you

OVERVIEW

The גמרא relates about the swindlers of פומבדיתא, that when a customer would approach a tailor and ask him for his garment, the tailor would respond להד"ם. The customer would say, 'but I have witnesses who saw it by you', the אומן would respond, 'that is a different garment'. The אומן would not be willing to present the customer the garment in question for identification. The difficulty with this story is if the עדים positively identified the garment as belonging to the owner, how can the אומן be allowed to retain the garment; there are עדים?!

פירוש¹ טלית שהיו בו סימנים כעין שלי -

The explanation of the customer's statement, הא אית לי סהדי דחזיוה גבך, is that the עדים saw a garment that had identifying marks similar to my garment -

ולא שהיה להם טביעות עין² שהיו מכירים³ שהיא שלו:

However, the עדים did not have a טביעות עין that they were able to recognize positively that it belongs to him

SUMMARY

The עדים could not substantiate beyond a doubt that it belonged to the customer.

THINKING IT OVER

Why is it that תוספות begins with discussing סימנים (that there were 'שלי' (סימנים כעין שלי)), and תוספות concludes with 'טביעות עין'; why did not תוספות conclude with סימנים as well (like סימנים ברורים, וכיו"ב or ולא שהיו להם סימנים מובהקים)?!

¹ The term 'פירוש' indicates that the explanation of the גמרא is (somewhat) different than what we may have assumed. Here, 'הא אית לי סהדי', does not mean the עדים have positively identified it.

² טביעות עין means when someone recognizes an object by merely looking at it and knowing with a certainty to whom the object belongs, even though it would be difficult for him to describe what are the specific signs that makes him sure of his observation; it is like recognizing your black hat among many others. See 'Thinking it over'.

³ Had the witnesses recognized it with a certainty that it belonged to him, the אומן would be obligated to return it to him, since the אומן's claim of להד"ם has been refuted by the עדים.