

He left his craft; he has a *Chazokoh*

ירד מאומנותו יש לו חזקה –

OVERVIEW

The *Britha* rules that once a craftsman (אומן) leaves his trade and is no longer an אומן, he has a חזקה, meaning that he can claim that he bought any item which is in his possession (as opposed to an אומן who has no חזקה). The issue here is whether we mean that he has a חזקה even on the items which were in his possession while he was an אומן, or that he only has a חזקה on these items which came into his possession after he left the אומנות.

מצינו לפרש מאותן כלים שנתן לו לאחר שירד מאומנותו דומיא דאריס שירד מאריסותו¹ -

We can explain the ruling of ירד מאומנותו יש לו חזקה to be referring to those utensils that were given to him after he left his אומנות, similar to a sharecropper (אריס) who left his אריסות -

אי נמי אפילו אותן כלים שנתנו לו בשעה שהיה עדיין אומן -

Or we can also say that the אומן has a חזקה even regarding those items which were given to him while he was still an אומן -

והוא ששהו אחר אומנותו כל כך שהוא רגילות שמחזירים לבעלים² -

Provided that they lingered by the אומן after he left his trade to the extent that normally they would be returned to their owners –

Tosfos draws a parallel ruling:

ונראה דבן אומן נמי דאמר לעיל³ דיש לו חזקה כי אמר⁴ בפנינו הודה -

And it appears to *Tosfos* that also regarding the son of the אומן, where the גמרא מערער that the אומן has a חזקה when he claims that the item admitted in my presence to my father that he sold it to my father; the ruling is -

היינו אחר ששהה אחר מות אביו -

Only if the item lingered after his father's death for the above-mentioned period -

¹ When the *Britha* states that an אריס שירד מאריסותו יש לו חזקה it means that if he made a חזקה in a field (for three years) after he left his אריסות, it is a valid חזקה. In that case the חזקה began only after he finished the אריסות, however the time he was an אריס cannot be included in the three years necessary for a חזקה, similarly the חזקה of an אומן must begin after he left his אומנות, however if he had the item before he left the אומנות, there will be no חזקה, because we assume the item came into his possession as an אומן, but not as an owner.

² Let us assume that items which are given to a tailor are picked up or returned to the owner within a month, but no one leaves it for more than a month. Therefore if the item was by the tailor (after he stopped tailoring), for more than a month, the tailor can claim, 'I bought it from you'. If it was not bought by the tailor, the owner would certainly have taken it back before the month was over.

³ See (also) עמוד תוס' ד"ה כגון [TIE footnote # 4].

⁴ The *Tosfos* amends this to read אמר בפני הודה (instead of הודה בפנינו).

דאי לאו הכי אין נראה שיהא נאמן במיגו דאי בעי אמר לקוח הוא בידי⁵ -

For otherwise (if the dispute took place immediately after the father's death) it does not appear that the אומן בן אומן would be believed (that בפני הודה) with a מיגו that the אומן בן אומן could have claimed, 'I bought it' -

דאי טעין נמי לקחתיה ממך לא היה נאמן:

For even if he would have claimed, 'I bought it from you; he would not be believed.

SUMMARY

An אומן שירד מאומנתו (as well as a אומן בן אומן who claims הודה) has a חזקה, even if the item was in his possession when he was an אומן, provided that an inordinate amount of time elapsed from when the owner should have retrieved his item.

THINKING IT OVER

1. These cases of אומן שירד מאומנתו and אומן בן אומן, which תוספות is discussing, are they in situation of עדים (that he gave it to repair עדים בפני הודה) and ראה (that we see it in his possession) or not (both not or one not)?⁶

2. What would be the ruling by an אומן who claims מינך לקחתיה, in a case where the item lingered by the אומן for an extended period of time? Why?

⁵ The reason the אומן בן אומן is believed (even if he claims he inherited it from his father the אומן) is when he adds the claim of הודה בפני. The reason we believe his claim of הודה בפני is because the אומן בן אומן has a מיגו of לקחתיה ממך. However if the מערער made his claim immediately after the אומן passed on, there is no מיגו. The מערער will claim, 'I gave in this item to be tailored less than a week ago and I wish to reclaim it. If the אומן would be alive he would certainly not have a חזקה (since it came to him אומנות); the same is with the אומן בן אומן; we will argue in favor of the מערער that the אומן בן אומן has it from his father. However if a long time passed, we say to the מערער, if you did not sell it, how come you left it for such a long time in the possession of the אומן בן אומן, in which case the אומן בן אומן will be believed הודה בפני, with a מיגו of לקחתיה ממך, since such a long time elapsed.

⁶ See נחלת משה.