

And if not, I will pass judgment against you, as per the ruling of ר"ה¹ – ואי לא דאיננא לך כרב הונא אליבא דרבי יוסי.

Overview

fenced in רוניא on all four sides and demanded from רוניא payment of (at least) אגר נטירא² (the cost of a watchman). רוניא refused. רבא told רוניא that if he does not pay for this limited amount, he will rule that רוניא must pay a much greater amount in accordance with the opinion of ר"ה אליבא דר"י. The question is, whether רבא truly maintained that the הלכה is according to ר"ה אליבא דר"י, or perhaps רבא does not agree with ר"ה אליבא דר"י, he only said it as a threat to induce רוניא to pay the minimal amount.

it appears somewhat – קצת היה נראה –

that was not saying this to merely frighten him – שלא להפחידו היה אומר כן (רוניא), however רבא himself maintains that the ruling of ר"ה אליבא דר"י is not legally binding. This is not so, rather רבא agrees that the legal ruling should follow the opinion of ר"ה אליבא דר"י, instead of the compromise that רוניא was offering.

proves his point that he was not merely trying to frighten him:

I will collect the amount due for the fence from your house by placing a lien on it³ – **since רבא did not say to רוניא** – מדלא קאמר ואי לא מגבינא לאפדנא מינך

– or he should have told רוניא – או

I will smite you with a thorn that hurts but does not draw blood⁴. These are the types of 'threats' that we find in the גמרא that various דיינים used. The fact that he did not use any of these threats but rather warned him that if he does not agree to the compromise he will rule according to the strictest interpretation of the law, indicates that indeed the law is the way it was expounded by ר"ה אליבא דר"י. If the law does not follow the opinion of ר"ה אליבא דר"י, why did רבא use an empty threat, which he could not follow up on? He should have used the threats mentioned, which he could impose, to coerce רוניא pay (at least) the אגר נטירא.

anticipates a question:

And even though that in פרק לולב הגזול – ואף על גב דבלולב הגזול (סוכה דף לד, ושם דיבור המתחיל ולדרוש)

said to the myrtle (הדסים) merchants – אמר שמואל להני דמזבני אסא (ד' מינים) –

make your prices equal to the normal market value (do not overcharge because the people need the הדסים for טוב) – אשוו זביניכו

¹ 'הכל לפי מה שגדר' ניקף ר"ה אליבא דר"י.

² רש"י ד"ה פייסיה.

³ ב"ק דף יב,א.

⁴ See later ב"ב דף קנא,ב. This refers to a נידוי.

and if not (if you refuse to listen to me) **I will interpret** the הלכה according to רבי טרפון who maintains that even a lopped off הדס is כשר⁵.

and the גמרא wanted to say there that שמואל **said this in order to frighten** the merchants, but not that the דין is actually like ר' טרפון. It appears from that גמרא that even though שמואל did not threaten them with the abovementioned threats (of smiting them with a thorn, etc.), nevertheless we do not assume that his threat to rule according to ר' טרפון was a real threat. The הלכה is not like ר' טרפון, it was only an empty threat to frighten them. We may argue that here too in the case of רוניא it was an empty threat, and the הלכה does not necessarily follow the opinion of ר' הונא אליבא דר"י.

responds: תוספות

Here however it seems that רבא **indeed maintained so, as רש"י explains⁶**; that we can infer from here that the הלכה is according to ר"ה אליבא דר"י (תוספות does not explain the difference between our case and the case of the אסא.⁷)

ר"ה אליבא דר"י offers an additional proof that the הלכה is like ר"ה:

and furthermore since רבא said to רוניא **and appease him** for the amount—

with which he agreed to compromise⁷, that —

indicates that according to the law רבינא was owed more.

if not for the fact that רבינא **already agreed to compromise**. רבא referred to the amount that he expected רוניא to give רבינא, as a compromise on רבינא's behalf. This indicates that according to the strict interpretation of the law, רוניא would be required to pay more.

Summary

ר"ה אליבא דר"י maintains that רבא is in agreement with the ruling of ר"ה. If not, he would not have made this empty threat, but rather would have warned רוניא that there are ways to coerce him to pay רבינא.

⁵ If שמואל had ruled like ר"ט that a הדס may be missing the top, the prices of הדסים would have fallen dramatically, since lopped off הדסים are plentiful.

⁶ See רש"י ד"ה הגה"ה. We might infer from this תוספות accepted this הגה"ה to be the opinion of 'כדפירש ר"ש' or 'כדפירשית' גירסא in תוספות be emended to read either 'כדפירשית' or 'כדפירש ר"ש'. Others however suggest that the תוספות be emended to read either 'כדפירשית' or 'כדפירש ר"ש', referring to the רשב"ם. The תמ"ש of ר"ת, which appears at the end of the הגה"ה, is 'תוספות מורינו שמואל'.

⁷ The commentaries explain that in the case of הדסים, there was no choice but to frighten them with an idle threat. שמואל could not have told them that he would make them pay. They did not owe anything to anyone; they merely raised the prices of הדסים (which perhaps they may have had the legal right to do so). Here however, if the הלכה is that he is required to pay (only) רבינא, then רבא should have threatened him accordingly, and not with an empty threat.

An empty threat may sometimes be used, when there is no other way to coerce the wrongful party, as in the case of שמואל and the הדסים merchants. Another indication that ר"ה אליבא דר"י agreed with רבא is the fact that he referred to s'רבינא offer as a compromise, indicating that legally רבינא could have demanded more.

Thinking it over

1. Seemingly the second תוספות of ראייה is readily understood. Why is it only a 'second' proof?
2. If we were to assume that רבא disagrees with ר"ה אליבא דר"י; what would רבא himself maintain in this case?
3. Can this case be in accordance with the לישנא אחרת, that מקיף וניקף איכא, that לישנא אחרת, that בינייהו?