

**For we learnt; Rabi Akivoh said, etc. – דתניא אמר רבי עקיבא כולי –**

## **OVERVIEW**

The גמרא challenges רב, who maintains that a גנב is קונה through יאוש בעלים (alone), from a statement of ר' עקיבא in a ברייתא. Previously<sup>1</sup> רבה (also) stated that יאוש is קונה, and the גמרא there challenged רבה. Our תוספות discusses the different challenges posed to רבה and רב (who both maintain קני יאוש).

מכל הנהו דפריך הכא לרב<sup>2</sup> הוי מצי למפרך לעיל לרבה -

The גמרא **could have challenged רבה previously from all these challenges** that the גמרא poses here against רב -

ומהנהו דפריך לעיל לרבה<sup>3</sup> הוי מצי למפרך לרב -

And the גמרא **could have challenged רב here from all the challenges** that were previously posed against רבה –

תוספות offers an explanation, why indeed the גמרא did not do so:

אלא דרבה דאיירי בגזלן<sup>4</sup> פריך ליה ממילי דגזלן<sup>5</sup> -

However since רבה was discussing יאוש by a גזלן, the גמרא challenges him from גזלן issues -

ולרב דמיירי בגנב<sup>6</sup> ניחא ליה למיפרך ממילי דגנב<sup>7</sup> אף על פי שאין סברא לחלק<sup>8</sup> -

And the גמרא prefers to challenge רב, who is discussing יאוש by a גנב, from גנב issues. Even though there is no logic to differentiate regarding יאוש between a גנב and a גזלן.

תוספות offers an alternate explanation as to the manner of these challenges:

ועוד דכמו שהוקשו בבית המדרש נקבעו בגמרא<sup>9</sup> -

And additionally these challenges were established in the גמרא as they were actually posed in the ביהמ"ד.

<sup>1</sup> סו,א.

<sup>2</sup> The גמרא asks on רב here from ר"ע, and on סח,א from the ברייתות of שמינה חזרת.

<sup>3</sup> קרבנו ולא הגזול (סו,ב) and גזל חמץ from the גמרא there.

<sup>4</sup> הגזול עצים of משנה and והשיב את הגזילה of פסוק. רבה cites as support for his view.

<sup>5</sup> See footnote # 3.

<sup>6</sup> רב is referencing the משנה of 'וכי' הגונב וכו'.

<sup>7</sup> See footnote # 2.

<sup>8</sup> See 'Thinking it over' # 3.

<sup>9</sup> Seemingly this means that it just so 'happened' that they presented only these challenges to רבה and the others only to רב. The גמרא left it as it was initially presented. See 'Thinking it over' # 1.

**ולתרוייהו הוה מצי למפרך מההיא דגנב והקדיש דפריך מינה לקמן רבי יוחנן לריש לקיש:**  
**The גמרא could have challenged both of them (רב and רבה) from that** of ברייתא (יאוש קני ר"ל **later challenges** ר"י **from which** <sup>10</sup> **גנב והקדיש**).

## **SUMMARY**

The גמרא asked the question regarding יאוש by גנב וגזולן according to what רבה ורב were discussing respectively, even though there is no logic to differentiate between them. Alternately; the questions were recorded as they were originally posed.

## **THINKING IT OVER**

1. second explanation<sup>11</sup> is seemingly not satisfying, for the issue moves from the מסדר הגמרא to the בעלי הגמרא who actually asked these questions. Why did they not ask all the questions to both parties?

2. Is last comment,<sup>12</sup> according to both explanation or only according to one of them?

3. תוספות states there is no logic to differentiate between a גנב and a גזולן regarding ר' שמעון <sup>13</sup> יאוש קונה. However the גמרא previously<sup>14</sup> mentioned a dispute between ר' שמעון and the רבנן regarding עורות, where according to ר"ש there is no יאוש by a גנב even if it was known he was מייאש,<sup>15</sup> but by a גזולן there is יאוש, and the רבנן maintain the opposite, so we see there is a difference between גנב וגזולן; how can we reconcile this which תוספות maintains and what the גמרא states?<sup>16</sup>

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<sup>10</sup> See סח,ב. See 'Thinking it over' # 2.

<sup>11</sup> See footnote # 9.

<sup>12</sup> See footnote # 10.

<sup>13</sup> See footnote # 8.

<sup>14</sup> סו,ב.

<sup>15</sup> See קיד,א.

<sup>16</sup> See # 55 אוצר מפרשי התלמוד.