

## אלמא חיישינן לקנוניא –

**It is evident that we are concerned for a swindle**

### OVERVIEW

ר"א maintains that when the לוח admits, we return the שטר to the מלוה and we are not concerned that this may be a קנוניא. The ברייתא states that even if the לוח admits we do not return the שטר (which has אחריות). The גמרא surmises that the ברייתא is concerned לקנוניא (and therefore the שטר is not returned), which refutes ר"א. תוספות explains that the emphasis of the refutation is on the ruling, rather than on the reason for the ruling.

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anticipates a difficulty:

ואף על גב דמצינו למימר טעמא דלא יחזיר משום דשמא כתב ללות בניסן<sup>1</sup> –

לא maintains the ברייתא the reason is because יחזיר is because כתב ללות בניסן, etc., but not because of a קנוניא –

replies that -

מכל מקום קשיא דרבי אלעזר דאמר יחזיר ולא<sup>2</sup> חייש:

Nevertheless it will still present a **difficulty, for ר"א maintains and he is not concerned** for anything; neither קנוניא not וכו' שמא כתב, while the ברייתא rules חשש and is obviously concerned for some חשש.

### SUMMARY

There is a question on ר"א regardless whether the reason is קנוניא or כתב ללות.

### THINKING IT OVER

is (seemingly) explaining that the refutation of ר"א is because he says יחזיר and the ברייתא says לא יחזיר. Why then does תוספות end with the words 'ולא חייש'; this is seemingly irrelevant to the refutation?<sup>3</sup>

<sup>1</sup> The ברייתא will follow the view of אסי (and not of אביי that לו).

<sup>2</sup> ר"א is not חייש for שמא כתב (either) as שמא כתב mentioned previously. See 'Thinking it over'.

<sup>3</sup> See במעין החכמה. It seems that it is important for the גמרא to derive that לקנוניא (which is a more encompassing ruling than יחזיר or לא יחזיר).