

However, not for an 'ordinary' person

אבל איניש דעלמא לא –

Overview

The גמרא states that returning a lost object based on recognition alone is reserved for a תורה scholar but not for an איניש דעלמא. Our תוספות explains why an איניש דעלמא is not believed with טביעת עין.

מפרש רבינו תם דעם הארץ נמי אית ליה טביעות עינא¹ -

The ר"ת explained that an ע"ה also has טביעת עין -

כדאמר בפרק גט פשוט (בבא בתרא דף קסח,א) האי מאן דבעי לקדושי איתתא לידבר עם הארץ בהדיה -

As אביי states in פרק גט פשוט; any person who wishes to be מקדש a woman should bring an ע"ה with him to make sure that they do not exchange her for someone else; proving that an ע"ה has a proper טביעת עין –

והאי דלא מהדרין ליה משום² דלא מהימן:

And the reason that we do not return the אבידה to the ע"ה is because he is not believed; we suspect him of lying when he says, 'I recognize this item as being mine'.

Summary

An ע"ה has טביעת עין; however he is suspect of lying.

Thinking it over

Do we actually assume that the ע"ה is lying outright, or that when he claims it, he is really not certain it is his, but is merely assuming it.³

¹ The ר"ת is rejecting the notion that an ע"ה does not have the capabilities of cognition, so he may think he recognizes with טביעת עין, but in truth he does not. תוספות rejects this view.

² The ע"ה is not believed wherever he has a vested interest. Similarly the שליח הגט has a vested interest in completing his שליחות, therefore he claims this גט, so he will be paid when he finishes his שליחות. See 'Thinking it over'.

³ See פני יהושע and נחלת משה.