

דאגר מינה פרה והדר נסבה –

That he rented a cow from her and then he married her

OVERVIEW

The גמרא explained that the query of רמי בר חמא was in a case when he rented a cow from a woman and then he married her; is he now¹ considered a ש"ש or a שואל.² Our תוספות explains that the query may be posed slightly different,

והוא הדין דמצי למימר דשאל מינה פרה³ אלא מילתא דשכיחא נקט:

And it would have been justified to say that the query was that he borrowed a cow from her (not rented); **but** the reason he said rented is because **he mentions the more frequent case** (which is שכירות); people are more apt to rent out a cow (for a fee), than to lend it (for free).

SUMMARY

The query of רב"ח, can equally be by שאילה as by שכירות.

THINKING IT OVER

Where is there a greater חידוש that the post marriage state revokes the pre marriage state; when it was initially שכרה or שאלה?

¹ After the marriage the husband has a (new) right in the assets (נכסי מלוג) of his wife (including the rented cow). Does this right make him a ש"ש or a שואל on the assets; including the cow.

² The גמרא assumed at this stage that if he was initially a שוכר and בעל בנכסי אשתו is also a שוכר, then the original שאילה בבעלים remains and it is not שמירה בבעלים. However if a בעל בנכסי אשתו is a שואל, the current שמירה בבעלים (which normally would increase his liability) revokes the original שכירות and it is considered now שמירה בבעלים.

³ The query would be basically the same except in the opposite manner; if a בעל בנכסי אשתו is a שואל, the initial שאילה would continue and it would not be שמירה בבעלים. However if a שוכר הוא, the current שכירות בבעלים (which normally would decrease his liability), revokes the initial שאילה and it is now considered שמירה בבעלים.