

הכא נמי דלא מגרשה – Will she not be divorced even here?!

OVERVIEW

רבינא said to רב אשי according to רבא who maintains that a חצר מהלכת is not קונה, it would come out that if a man threw a גט to his wife and it landed in (her lap or) her weaving basket, that she would not be divorced, since it is a חצר מהלכת. It is evident that רבינא (and רב אשי both) assumed that she will certainly be מגורשת in such a case. תוספות discusses why they assumed so.

פירש רש"י הא דתנן¹ זרק לתוך קלתה מגורשת –

רש"י explained the reason רבינא ורב אשי were certain that if he threw a גט into her basket she is מגורשת for we learnt it in a משנה; 'if he threw the גט into her קלתה she is divorced.'

רש"י's interpretation challenges תוספות:

ותימה לוקמה בכפותה² –

And this proof is astonishing! The משנה can be established where she was tied up, so she is not a חצר מהלכת.

רש"י answers for תוספות:

ושמא נראה ליה דוחק –

And perhaps they felt it was awkward to interpret the משנה in such an unusual case.

תוספות offers an alternate explanation:

אי נמי הכא מסברא פריך כדפריך מספינה ולא מכח משנה:

Or you may also say, רבא challenged the ruling of רבינא based on logic, just as ר"פ ורהבדר"י challenged רבא from the case a ship (based on logic), but not based on a משנה.

SUMMARY

We assume that חצר מהלכת is זרק לתוך קלתה based on a משנה, or based on logic.

THINKING IT OVER

What indeed is the סברא that חצר מהלכת is surely מגורשת (and similarly by חצר מהלכת that it is קונה)?³

¹ (.) 'תנן' to read this amend Others. גיטין ע"א.

² רבא ruled that by כפות a person or animal is not considered a חצר מהלכת.

³ See שמועה מבין.