

One who says give (this) [a] גט

האומר תנו גט –

OVERVIEW

Our text in the משנה reads 'האומר תנו גט זה לאשתי וכו' indicating that the husband or master is currently transferring the גט (שחרור) to the שליח. Our תוספות discusses and negates this גירסא.

אי גרסינן תן גט זה¹ אתיא מתניתין כרבי מאיר דוקא² -

If our text reads; 'give *this* גט' to my wife or *this* וכו' the משנה will be according to ר"מ exclusively.

(גורס 'זה' even if we are):

אי נמי אפילו כרבנן וכגון שאינו מוסרו מיד ליד אלא מראהו לו ומצוה ליתנו -

Or you may also say; the משנה can even be according to the רבנן and we are discussing a case where for instance the master (husband) is not hand delivering the שליח שטר שחרור to the hand of the שליח, but rather he is merely showing the שליח and commanding him to give it to the עבד -

והוא לא נטלו עד אחר מיתה³ -

And the שליח did not take the שטר שחרור till after the death of the master.

רבנן offers an additional option (even) according to the:

אי נמי נטלו לאלתר ואפילו הכי לא זכה העבד -

Or you may also say; the שליח took the שטר שחרור immediately afterwards (meaning, while the master was alive) but nevertheless the עבד was not זוכה his freedom, since the שליח did not receive the שטר שחרור from the hand of the master -

ונאמר דלא אמרינן תן כזכי אלא כשמוסר לשליח מיד ליד⁴ -

For we will assume that the rule of תן כזכי applies only when the master

¹ The word זה indicates that the (husband is giving the גט to the שליח and the) master is giving the שטר שחרור to the שליח [as he is speaking].

² The רבנן maintain that it is a זכות for the עבד to be freed (as opposed to ר"מ who maintains that it is a חוב for the תן שטר שחרור זה, therefore as soon as the שליח receives the שטר שחרור from the master and the master told him זה, the שליח acquires the שטר שחרור on behalf of the עבד (תן כזכי) and he immediately becomes free. There is no issue of גט לאחר מיתה.

³ In this case the שליח was not זוכה the שטר שחרור for the עבד during the lifetime of the master, since the שליח took the גט after the death of the master. The rule of גט לאחר מיתה applies.

⁴ It seems that had the master actually said זכי, then even though it was not מיד ליד, the עבד would be זוכה in his שחרור (if the master was still alive) when the שליח took the גט. However since the master merely said תן and he did not give it מיד ליד to the שליח, then we do not apply the rule of תן כזכי. The fact that he did not give it מיד ליד indicates that the master does not want the שליח to be זוכה for the עבד, but merely to give it to him, and the שחרור should be חל when the עבד receives the שטר שחרור.

delivers the שטר שחרור to the שליח from his hand to the s'שליח hand, but not when the master merely showed him the שטר שחרור and the שליח took it from where it was lying.

⁵ responds to an anticipated difficulty:

ואשמעינן⁶ במאי דנקט זה דאף על גב שהגט⁷ בעין וראוי לינתן בשעה שעושהו שליח -
And the (שחרור) גט is teaches us by mentioning זה, that even though the שליח was appointed -
והותחל כל כך מחיים אפילו הכי לא יגמרו הדבר לאחר מיתה דאין גט לאחר מיתה -
And the process substantially started in the lifetime of the master; nevertheless they should not complete the process after his death since אין גט לאחר מיתה.

זה: of גירסא (however) negates תוספות

אבל אומר רבינו תם דלא גרסינן כלל זה -

However the גורם 'זה' states that we are altogether not ר"ת

דעל כרחק לא תנא זה במתניתין לשום חידוש⁸ -

For perforce you must say that the משנה had no intention of mentioning זה for any חידוש -

מדדייק בגמרא⁹ דמתניתין בבריא דאי בשכיב מרע מאי איריא תנו אפילו כתבו נמי -

Since בריא, for if the משנה is discussing a גמרא that our משנה is infers later in the רב זביד
משנה is discussing a שכ"מ why does the משנה state תנו, even if the שכ"מ would say
'write' the גט or שחרור we would also give it to the מחיים אשה ועבד מחיים. This concludes the
citation from the גמרא. Now תוספות concludes his proof:

ואי תנא זה לאשמעינן שום חידוש¹⁰ אפילו מיירי בשכיב מרע לא הוה ליה למימר כתבו -

⁵ If we assume that the משנה is only according to ר"מ then the word זה teaches us that even though the שליח received the גט מחיים, nevertheless the עבד is not freed since it is a חוב for the עבד. However if we will assume that the משנה is according to the רבנן who maintain it is a זכות for the עבד to be freed, why is it necessary to mention זה. The משנה is teaching us that if the שליח did not receive the שטר שחרור (מיד ליד) during the lifetime of the master, the עבד is not free [regardless whether he said זה or did not say זה], since תן כזכי does not apply here. Why mention 'זה'?!
⁶ This is referring to the case where the שליח took it מיתה, however where the שליח took it לאלתר (but not מיד), the חידוש is that the עבד was not מחיים זוכה (since there is no כזכי), and therefore it cannot be given מיתה לאחר. (ליד)
⁷ According to the רבנן the חידוש of זה is by both אשה גט and שטר שחרור (as opposed to ר"מ where the חידוש of חוב is only by עבד [see footnote # 5]). See however מהרש"א who maintains that the חידוש לרבנן is only by עבד, however by אשה since it is a חוב, there is no הו"א that it should be effective. (See footnote # 12 for further discussion.)
⁸ There is no reason for the משנה to write 'זה', unless by writing 'זה' it is teaching us a חידוש (that שחרור עבד is a חוב according to ר"מ, or that even though the process began מחיים, nevertheless it is considered a לרבנן גט לאחר מיתה לרבנן). However, תוספות will immediately prove that this cannot be the משנה's intention.
⁹ On יג,ב we find that רב זביד infers from our משנה that we are not discussing a case of מרע שכיב, in the following manner. The משנה states that we do not give the גט or שחרור (to the אשה ועבד) after מיתה; indicating that we do give it to them before מיתה, but only if he said תנו. If the משנה would be discussing a מרע שכיב then even if he said כתבו (and did not say תנו) we would also give it to them (מחיים), since דברי שכ"מ ככתובים וכמסורים דמי. (מחיים)
¹⁰ According to ר"מ it teaches that it is a חוב for the עבד; according to the רבנן it teaches that it is still considered לאחר

And if the משנה states 'זה' to teach us some חידוש, then even if the משנה is discussing a שכ"מ, the משנה could not have stated 'כתבו', for then we would not know the חידוש of זה.¹¹

anticipates a possible refutation to this proof (and rejects it):

ואין נראה לומר דהכי דייק אי בשכיב מרע הוה ליה למיתני –

And it does not seem logical to say that this is how רב זביד inferred that the משנה is not discussing a שכ"מ, for if we are discussing a שכ"מ, the משנה should have stated -

כתבו גט לאשתי ותנו שחרור זה לעבדי¹² –

‘Write a גט for my wife (without תנו or זה) and give this שחרור to my slave’ –

responds that this is not a viable option:

דהא כיון דצריך לשנות תנו שחרור זה אין לו לתנא לשנות כתבו גט לאשתי ולהאריך בלשון:

For since it is necessary to teach זה שחרור זה (for the aforementioned חידוש of זה), it is not appropriate for the תנא of the משנה to teach לאשתי גט כתבו and by this increase the verbiage of the משנה.

SUMMARY

We are not גורס the word זה (even though it can be [even] according to the רבנן), for the משנה is not teaching us any חידוש regarding זה.

THINKING IT OVER

Why indeed did not the משנה write 'זה' (according to the ר"י) and teach us the חידוש, which תוספות mentions (according to ר"מ and the רבנן respectively)?¹³

מיתה even though all the preparations had already begun.

¹¹ We would not know that it is a חוב for the עבד (according to ר"מ), and we would not know (לרבנן) that it is considered מיתה (even though the preparation had begun), but rather if it would say כתבו, it would clearly be a case of מיתה, since there is no תנא כזכי and nothing was done מהיים, for all he said was כתבו.

¹² The (main) חידוש of זה is by עבד (either that it is not a חוב, or even though it is a זכות it is still not considered מהיים), so let the משנה write תנו and זה by עבד, but by אשה (where there is no חידוש of תנו) the משנה should write כתבו (and not כתבו גט לאשתי). See מהרש"א (mentioned in footnote # 7) that since תוספות writes לאשתי גט כתבו (זה) if we are discussing a שכ"מ. See (לר"מ) כריסטיןפולר [ת"ק-תקס"ה] that since תוספות writes 'זה' by עבד it is necessary to write 'זה' by אשה. However one can argue and say that once we know the חידוש by עבד that even though it is a זכות, nevertheless it is a חוב, so how much more so is this true regarding אשה, and there is no need to repeat the חידוש (especially since it is a minor חידוש compared to עבד), therefore the question remains if it is by אשה it should say כתבו to teach us the חידוש that מהיים we give her the גט (even though it is a חוב). See יד מהרש"א (לר"מ) אות רצא בד"ה אבל. See (לר"מ) כריסטיןפולר [ת"ק-תקס"ה] for an alternate refutation of the מהרש"א.

¹³ See # 21 אמ"ה.