

**ורבי יהודה הנשיא בשם רבי יעקב אומר הולך לאו כזכי –**

**And זכי in the name of ר"י the הנשיא says, הולך is not like**

## OVERVIEW

The גמרא cites a ברייתא in which ר"י הנשיא states (in the name of ר"י) that הולך is not כזי (and the sender may retract). תוספות will reconcile this with another ברייתא where it is evident that רבי maintains הולך כזי.

תוספות anticipates a difficulty:

ואף על גב דרבי<sup>1</sup> אית ליה בפרק התקבל (לקמן סג, א)<sup>2</sup> הולך ותן לה זכה לה התקבל לה –

**And even though רבי maintains in פרק התקבל** that if the husband said to the שליה (לקבלה of the woman) ‘**הולך and give it to her, acquire it for her, or accept it for her**’, in all these cases the rule is if the husband –

**רצה לחזור לא יחזור דהולך ותן כזכי<sup>3</sup> –**

**Wishes to retract** (and have the גט returned to him), **he may not retract, for הולך**  
**and תן are like זכי**;<sup>4</sup> this seems to contradict what ר"י הנשיא rules here (in the name of ר' יעקב  
 !לאו כזכי הולך is that ש"מ משום ר"מ)<sup>5</sup>

תוספות responds:

**התם משום שאמר השליח אשתך אמרה התקבל לי גטי –**

**There by a גט, since the שליה said, ‘your wife said (to me) ‘accept the גט on my behalf’’, therefore he cannot retract -**

**דמסתמא על דעת כן נותן לו<sup>6</sup> כל זמן שאינו אומר בהדיא אי אפשר שתקבל לה:**

<sup>1</sup> רבי יהודה הנשיא is רבי.

<sup>2</sup> The case there is where the woman appointed a שליח and told him התקבל לי גיטי (she made him for a שליח לקבלה; which means that as soon as the שליח receives the גט, the woman is מגורשת). The שליח told the husband your wife told me, התקבל לי גיטי. The husband responded by saying either זכה לה or הולך ותן לה. התקבל לה.

<sup>3</sup> The words *וְתִכְּזֹב וְתִשָּׁחַד*, do not appear in the *ברייא*; it is *חוספות* explanation of the ruling.

<sup>4</sup> If הולך were not בזכי, then the husband would be able to retract, for even though the woman appointed him for a גט, nevertheless the husband has the option of refusing to give the גט to this שליח לקבלה that he should accept it as a שליח לקבלה, rather the husband can insist that he receive the גט as a שליח להולכה, in which case the woman is not מגורשת until she receives the גט. This would enable the husband to retract. The fact that he cannot retract (seemingly) proves that when the husband said הולך, he did not mean just be a שליח להולכה, but rather he meant לה זכה and be a שליח לקבלה.

<sup>5</sup> See 'Thinking it over' # 2.

<sup>6</sup> The *שליח* stated clearly that he was appointed a *שליח לקבלה*, therefore unless the husband clearly states, ‘I do not want you to be a *שליח לקבלה*’, the assumption is that no matter what the husband said (whether *הולך* or *זכי*), he means that the *שליח* should accept the *גט* as a *שליח לקבלה* (just as the *שליח* informed the husband). [See ‘Thinking it over’ # 1.] However in a case where there is no indication that this *שליח* is acting on behalf of the recipient we do not say *הולך כזכי*.

**For presumably the husband is giving the גט to the שליח with this intent** (that the שליח should accept it as a מקבלה) **as long as the husband does not explicitly state, 'I do not want that you should accept the גט on her behalf'.**

### **SUMMARY**

רבי generally maintains לאו כזכי הולך except in a case where it is evident that the שליח is acting on behalf of the מקבל, then הולך is כזכי unless the grantor explicitly excludes the שליח from being זוכה for the מקבל.

### **THINKING IT OVER**

1. גט explains that even though רבי maintains לאו כזכי הולך, nevertheless by a גט where the שליח states לי גיטי אשתך אמרה התקבל לי גיטי שליח he meant כזכי.<sup>7</sup> In our ברייתא here ר' נתן (also) maintains לאו כזכי הולך (like רבי), however in the ברייתא later (of ואשתך אמרה התקבל וכו'), he maintains that הולך is כזכי, not like תוספות assumes. Why is it so that ר' נתן does not follow the logic of תוספות?<sup>8</sup>

2. ר"י הנשיא contradicts תוספות. However why cannot we simply answer that ר"י הנשיא here with רבי later maintains כזכי הולך; however here ר"י was stating the view of ר"מ<sup>9</sup> (but it is not the view of רבי)!<sup>10</sup> in the name of ר' יעקב

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<sup>7</sup> See footnote # 6.

<sup>8</sup> See אמרי בינה לר"ש גארמיזאן.

<sup>9</sup> See footnote # 5.

<sup>10</sup> See נח"מ.