

יצא זה שמחוסר כתיבה קציצה כולי –

It excludes this which is lacking writing, cutting, etc.

Overview

The גמרא explained that after writing the גט on a horn of the cow, he must give the entire cow to the woman and cannot just cut off the horn (on which the גט is written) and give it to her, for the תורה writes ונתן וכתב וגו' that the giving must follow the writing, but in this case there is also the קציצה (cutting of the horn) between the כתיבה and this is proscribed by the ונתן וכתב. Our תוספות discusses these restrictions.

פירש רבינו שמואל דוקא בבעלי חיים או במחובר לקרקע -

The ר"ש explained that this restriction of מחוסר קציצה is specifically by a live animal or something which is attached to the ground -

שעוקר דבר מגידולו חשיב מחוסר קציצה -

For since he is uprooting something from where it grows; that is considered – מחוסר קציצה, but merely cutting the גט from a larger paper is not considered מחוסר קציצה

The ר"ש offers proof:

ותדע דבסמוך¹ איפליגו אביי ורבא כשכתבו על עלה של עציץ נקוב² –

And you know that this is so, for shortly רבא אביי argue³ in a case where one wrote the גט on a leaf of a plant which was growing in a perforated flowerpot -

דרבא גזר שמא יקטום אבל כשאינו נקוב משמע⁴ אפילו יקטום כשר -

Where רבא invalidates the גט because of an injunction that perhaps he may snip off the leaf with the גט (and then it is מחוסר קציצה); however by a non-perforated flowerpot it seems that even if he snips it off it will be valid.

וכן פירש הרב רבי שמעיה בפירושו ואם כתב גט בקלף גדול ואחר כך חתכו לפי זה כשר -

And רבי שמעיה also explained it in this manner in his commentary, so if one wrote a גט on a large parchment and tore off the גט afterwards, it will be כשר according to this view.

¹ See the bottom of this עמוד.

² We generally consider those plants growing in an עציץ נקוב as being מחובר לקרקע (attached to the ground), and those growing in an עציץ שאינו נקוב as being תלוש (unattached to the ground).

³ אביי maintains that if a גט was written on a plant leaf growing in an עציץ נקוב, and he gave her the entire עציץ, it is a כשר (there was no קציצה in between); however רבא maintains that it is פסול (as תוספות continues).

⁴ The inference is that if there is an issue of מחוסר קציצה always (even if something is not מחובר לקרקע), the מחלוקת of רבא should be even by an עציץ שאינו נקוב, and רבא should maintain that it is פסול because of קטום. The fact that they argue (only) by an עציץ נקוב (which is [considered] מחובר לקרקע) indicates that by an עציץ שאינו נקוב (which is not מחובר לקרקע) even if he is קוטם it will be כשר.

ומעשה היה בימי הרב רבינו יצחק ברבי מנחם ופסלו ונחלקו עליו גדולי הדור -

And such an episode happened in the time of **ה"ר יצחק ברבי מנחם** and he disqualified the **גט**, and the great scholars of his generation disagreed with him -
ובעל הלכות גדולות פוסל וכן רבינו תם היה מחמיר -

However the **ג"ה** disqualifies such a **גט**, and similarly the **ר"ת** was stringent and did not allow such a **גט** -

מחמיר **ה"ת** explains why the **ר"ת** was תוספות

מדקאמר בסמוך⁵ כתבו על חרס של עציץ נקוב כשר דשקיל ליה ויהיב לה ניהליה⁶ -

Since the **גמרא** states shortly; 'he wrote the **גט** on the clay of an **עציץ נקוב**, it is **כשר**,
for he takes the entire **עציץ** and gives it to her' -

⁷ responds to an anticipated difficulty: תוספות

והא דלא פליג עלה רבא משום דליכא למיגזר שמא ישבר העציץ דאין דרך לשוברו⁸ -

And the reason **רבא** does not argue on this ruling (that **כשר** וכו' חרס), is because we cannot make an injunction that perhaps he will break the **עציץ**, for it is not usual to break an **עציץ**, as it is to snip off a leaf -

דרך: תוספות proves that we do not make a גזירה if it is not the

כמו בקרן של פרה דלא גזרינן שמא יקצץ דאין דרך ליקצץ ודוקא בעלה גזרינן שמא יקטום -

Just like the case where he wrote the **גט** on a horn of a cow, where it is **כשר** if he gives her the cow, and we are not **גזיר** perhaps he will cut off the horn, because it is not usual to cut off the horn from a cow, and the **גזירה** of **יקטום** is only specifically by a leaf, where it is usual to snip off a leaf -

⁹ רבינו שמואל now refutes the proof of תוספות

ולאו דוקא נקט עלה של עציץ נקוב דהוא הדין כשאינו נקוב -

And when the **גמרא** cites the dispute between **אביי** ו**רבא**, the **גמרא** did not mean that their dispute is exclusively by an **עציץ נקוב** (as the **ר"ש** assumed), rather the

⁵ See footnote # 1.

⁶ The implication is that it is a valid **גט**, because he gave her the entire **עציץ**; however if he would break off the **גט** from the rest of the **עציץ** it would be invalid even though the **עציץ** (despite the fact that it is **נקוב**) is not **לקרקע**. [It is only the plant which grows in an **עציץ נקוב** which is considered **לקרקע** since it is nourished by the **קרקע** (see footnote # 2), but not the **עציץ** itself.] See 'Thinking it over' # 1.

⁷ Now that we say (according to **ה"ת**) that if he would break the **עציץ** it would be **פסול** (because it is **קציצה**) then why is this case of **עציץ** different from the case of **עציץ** של **עלה** where **רבא** is **פוסל** because of a **גזירה** of **יקטום**; here too he should be **פוסל** because of the same **גזירה** of **ישבור**!

⁸ A person does not want to destroy a usable **עציץ**.

⁹ See footnote # 4.

- עציץ שאינו נקוב same dispute is by an

אלא משום רבותא¹⁰ דאביי נקטיה דאפילו בנקוב מכשיר -

But he mentioned נקוב because of the novelty of אביי that he is מכשיר even if it was an עציץ נקוב (for גיזור אביי maintains we are never)

רבותא דאביי addresses an additional issue which will increase the תוספות

ועוד אומר רבינו יצחק דמסתבר דאין האשה קונה את הגט שכתוב על עליה של עציץ נקוב -

Additionally, the ר"י states that logically the woman does not acquire the גט (and therefore not divorced) which is written on a leaf of an עציץ נקוב, she does not acquire it -

במשיכת העציץ או בהגבתו כל זמן שלא פסקה יניקת העלה¹¹ -

By merely pulling the עציץ or lifting it (as one is usually קונה), as long as the nurturing of the leaf did not cease -

כדאמרין בסמוך¹² מכר בעל זרעים לבעל עציץ לא קנה עד שיחזיק בזרעים¹³ -

As the גמרא rules shortly, 'the owner of the plant sold to the owner of the עציץ, the בעל העציץ does not acquire the plant until he makes a חזקה in the plant -

אבל במשיכת העציץ לא קנה דאכתי חשיבי מחוברין בשעת משיכה¹⁴ -

However by merely pulling the עציץ he will not acquire the plants because they are still considered attached at the time of the משיכה -

והא דמכשיר אביי משום דשקיל ליה ויהיב לה -

So, based on the aforementioned, this which אביי validates the גט because he takes and gives her the entire עציץ -

היינו דהניחתו במקום שפוסקת יניקת העציץ -

That is when he put down the גט in a place where the nourishment of the עציץ ceases (for otherwise the woman cannot acquire the גט by mere משיכה or הגבהה) -

דהשתא הוי רבותא טפי דמכשיר אביי בעציץ נקוב -

So now the novelty of אביי is even greater; that he is מכשיר by an עציץ נקוב -

¹⁰ Indeed it would be a greater חידוש for רבא if the מחלוקת was נקוב באינו (that even though it is not לקרקע the issue of מחובר לקרקע still exists); however that would be a חידוש לחומרא. When we cite the מחלוקת in a case of נקוב, and אביי is מכשיר that is a חידוש לקולא. Generally we prefer to state a חידוש לקולא over a חידוש לחומרא (for דהתירא עדיף).

¹¹ The plant continues to nurture from the ground as long as the perforation of the עציץ is exposed to the ground. To stop the nourishment one must either close the perforation, or place the עציץ where it is not exposed to the ground (on a table, etc.)

¹² כבא. The case there (relevant to us) is where one person owned this עציץ and another owned the plant growing in the עציץ.

¹³ One acquires through either משיכה (pulling it) or הגבהה (lifting it). One acquires קרקע through חזקה (or כסף). In this case he must do something to the plant which indicates his ownership (watering or pruning it).

¹⁴ Similarly by the גט of the עציץ נקוב, the woman will acquire the גט (and become divorced) only if the יניקת העלה will cease (see footnote # 11). See 'Thinking it over' # 2.

דלא גזרינן דיהיב לה בפסיקת היניקה אטו בלא פסיקת היניקה -

For we are not גוזר in a case where he gave it to her in a manner where the nourishment ceased, on account that he may give it to her in a manner where there is no פסיקת היניקה. The (greater) novelty is that there is no such גזירה, even though it is very likely that he should give it to her without פסקה יניקתו -

וקא משמע לן נמי אף על פי שצריך ליתן לה בפסיקת היניקה¹⁵ לא חשיב בהכי מחוסר קציצה - And is also informing us that even though he is required to give it to her in a manner that will cause ¹⁶פסיקת היניקה, nevertheless this is not considered as מחוסר קציצה -

פסול: any קציצה שיטת ר"ת offers support for תוספות

ורבינו יצחק מיייתי ראיה לפירוש רבינו תם -

And the ר"י brought a proof to the view of the ר"ת -

דחשיב בפרק כסוי הדם (חולין דף פט,א) עפר עיר הנדחת¹⁷ מחוסר תלישה קביצה ושריפה¹⁸ -

That in פרק כסוי הדם the גמרא considers the earth of an עיר הנדחת as lacking in ‘uprooting, gathering and burning’; and תוספות concludes -

ויותר נחשב מחובר גט בקלף גדול מחיבור עפר עיר הנדחת¹⁹ -

That a גט is considered more attached to a large parchment than the attachment of the earth by an עיר הנדחת, so therefore if the עפר עיר הנדחת is exempt from being burnt because if it מחוסר תלישה (similar to קציצה), the גט (which is significantly more attached to the large parchment), should certainly be considered מחוסר קציצה.

תוספות responds to an anticipated difficulty:²⁰

¹⁵ One may argue that the עציץ נקוב (even after the גט is written on its plant leaf) is considered לקרקע מחובר, and when he gives it to her in a manner of פסיקת היניקה it should be considered that he is removing it מגידולו and it should be considered קציצה מחוסר, therefore אביי teaches us that in this case it is not considered קציצה מחוסר since he is not actively cutting away a דבר המחובר, he is merely giving it to the woman in a manner the causes פסיקת היניקה.

¹⁶ These are the various חידושים that we are introduced to by having the מחלוקת by an עציץ נקוב; 1) that even by an עציץ נקוב it is מותר and there is no גזירה, 2) that we are not גוזר giving it פסיקת יניקה, and 3) that מחוסר קציצה is not considered פסיקת יניקה.

¹⁷ An עיר הנדחת is a Jewish city in ארץ ישראל in which (most of) its inhabitants are serving עבודה זרה.

¹⁸ Regarding an עיר הנדחת the תורה writes (in יג,יז [ראה]) that באש את העיר ואת כל שללה תקבץ אל תוך רחבה ושרפתה. One is required to burn all the assets of the city because the פסוק writes ושרפתה, however regarding the earth there exempts the burning of the earth of the הנדחת עיר because the פסוק writes ושרפתה, however regarding the earth there needs to be first the תלישה (uprooting), the removal of the earth from the ground, and that is not included.

¹⁹ Earth is not that much attached to the ground for each piece of earth is its own entity, and one can just as easily reattach the earth to the ground as it is to remove it. However the **א** is definitely attached to the rest of the parchment; they are one piece, and once cut off it cannot be reattached as it was originally. See ‘Thinking it over’ # 3.

²⁰ The תורה writes (כב-ג, כא, [תנא] דברים) that כָּל לֹא תִלֵּין נָבְלָתוֹ עַל הָעֵץ. כג לא תלין נבלתו על העץ. We derive that חייבי מיתות ב"ד have to be hung after they die and then be buried together with the wood on which they were hung. The חכמים maintain that we cannot hang him on a tree, for then it would be necessary to chop down the tree and bury it with the deceased. However this cannot be for we derive from קבור כי קבור that

והא דלא חשיב לקורה הנעוצה בארץ מחוסר תלישה בפרק נגמר הדין (סנהדרין דף מו, ב) -
And the reason the חכמים in פרק נגמר הדין do not consider a beam stuck into the ground to be מחוסר תלישה; that is -

משום דלא חשיב חיבור לקרקע כולי האי -
Because it is not considered that much attached to the ground.

concludes: תוספות

ולרבינו תם דוקא נחתך מקלף גדול חשיב מחוסר קציצה -
And according to the ר"ת, only a גט which is cut off from a large parchment is considered קציצה (and is פסול) -

אבל חותך מן הגט דבר מועט כמו שעושין לייפותו לא חשיב בהכי מחוסר קציצה -
However if one cuts off a slight amount from the גט as they are wont to do in order to beautify it, that is not considered קציצה -

כדאמרין לעיל (יז, ב) גזייה לזמן ויהביה ניהלה כולי²¹ -
As the גמרא stated previously; he cut off the date from the גט and he gave it to her, etc. what is the ruling is it כשר or not. Similarly -

בין שיטה לשיטה בין תיבה לתיבה מהו גבי והנייר שלי (ב, ב) -
Regarding the case where the husband says, 'I am giving you the גט but the paper on which it is written, is mine' (it is פסול); the גמרא there queries what if he says the paper between one line and the next is mine, or between one word and another is mine (the גמרא does not resolve this query). The גמרא does not say²² that it is פסול since it is מחוסר קציצה -

משמע דדבר מועט לא חשיב מחוסר קציצה:
This indicates that cutting a small amount is not considered קציצה, only when it is בחתך מקלף גדול.

Summary

There is a dispute whether מחוסר קציצה applies only to בע"ה or לקרקע, or it applies to everything. The שמא יקטום גזירה is only where it is reasonable to expect it. The woman is not divorced with a גט on an עציץ נקוב unless יניקתו. However this is not considered קציצה. A minimal cutting is not considered קציצה. לכו"ע.

מי שאינו חסר אלא קבורה יצא זה שמחוסר קציצה וקבורה. Therefore we hang him on a detached piece of wood which is impaled into the ground. The question is why is this impaled piece of wood, also not considered תלישה?

²¹ The גמרא does not say that it is פסול since he cut off the זמן so it is מחוסר קציצה; proving that this is not an issue.

²² The ח"י הרי"מ asks where is it indicated that he is cutting away the paper between the lines (or words), that it should be considered קציצה. He is merely saying that he retains ownership on the paper. See נחלת משה and בית לחם יהודה. אות תקי.

Thinking it over

1. The ר"ת maintains that cutting a גט from a גדול קלף is considered מחוסר קציצה and is פסול.²³ Generally the idea of מחוסר קציצה is only where it is not possible to do the act unless there is a קציצה (for instance if he wrote a גט on a לקרקע מחובר, so he cannot give it to her unless there is a קציצה); however here he can give her the גט with the קלף גדול, so why is there a problem if he is קוצץ the גט?!²⁴
2. In the case of כתבו על עליה של עציץ נקוב, where תוספות writes that the woman is not קונה the גט (and divorced) unless it was יניקתו;²⁵ what would be if it was not יניקתו, but the woman made a חזקה on it; is she מגורשת or not?²⁶
3. The ר"י brings proof to the שיטת ר"ת (that every קציצה even not לקרקע מחובר is considered מחוסר קציצה) from the case of עפר עיר הנדחת (which is considered מחוסר לקרקע עפר).²⁷ However seemingly the ר"ש would agree to this since the עפר is לקרקע מחובר (so we say it is קציצה/תלישה/מחוסר), however how can this be a proof to a גט written on a גדול קלף which is not לקרקע מחובר?!²⁸

²³ See footnote # 6.

²⁴ See פני יהושע.

²⁵ See footnote # 14.

²⁶ See נחלת משה and בית לחם יהודה אות תקטז.

²⁷ See footnote # 19.

²⁸ See נחלת משה.