

## Who are the *Chachomim*; *Rabi Elozor*

## מאן חכמים רבי אלעזר -

### Overview

The משנה<sup>1</sup> stated that ריב"ב maintains that a גט may not be written on erased paper or on דיפתרא (since it can be forged); however the חכמים permit it. ר' אלעזר (the אמורא) says that the חכמים of the משנה is ר' אלעזר (תנא), who maintains<sup>2</sup> עדי מסירה כרתי. Our first תוספות cites פרש"י who explains why according to ר"א a גט can be written on something which can be forged, qualifies his ruling, and disagrees with רש"י regarding the view of ר' מאיר.

פירש בקונטרס<sup>3</sup> דאמר עדי מסירה עיקר והבאה להנשא צריכה להביא עדי מסירה - עדי explained that the חכמים who are מכשיר ר"א, who maintains that the עדי מסירה are the main witnesses who effectuate the גט, so a woman who comes before us to remarry, must bring the עדי מסירה, and they will verify that it was not forged –

comments on this requirement to bring ע"מ if she wants to remarry:

ודוקא הכא על דבר שיכול להזדיין אומר רש"י דצריכה עדי מסירה בשעה שבאת להנשא - And it is only specifically here when the גט is written on something which can be forged, does רש"י say that she is required to bring ע"מ when she wants to remarry (according to ר"א) -

אבל בגיטין הכתובים בדבר שאינו יכול להזדיין יכולה להנשא על ידי עדי חתימה - However by גיטין which are written on something which cannot be forged, she can remarry based on the ע"ה if they are authenticated, and she is not required to bring the ע"מ -

ואפילו לרבי אלעזר כדתנן בפרק בתרא (לקמן פו, א) ומייתי ליה בריש מכילתין<sup>4</sup> - And this ruling (that ע"ה are sufficient) is true even according to ר"א (who maintains ע"מ כרתי) as we learnt in a משנה in the last פרק and it is cited in the

<sup>1</sup> כא, ב.

<sup>2</sup> In order for woman to become divorced we need two witnesses for the divorce to be effective. According to ר"מ the witnesses which [must] sign on the גט (called חתימה עדי) are the ones who make the גט effective; however ר' אלעזר maintains that the witnesses who observe the transfer of the גט from the husband to the wife (the עדי מסירה) they make the גט effective (even if there are no חתימה עדי).

<sup>3</sup> והלכך לא חיישינן לדלמא מזיפא דהא אמרן צריכי למיקרייה ואי הוה ביה תנאה אינהו; ידעי ומ"ד עדי מסירה עיקר הבאה לינשא צריכה להביא עדים שנמסר לפנייהם [Therefore we are not concerned that perhaps she forged it for it is necessary (for the עדי מסירה) to read (the גט before it is delivered to the woman) and if there was any stipulation (written in the גט) they would know about it, and according to the עיקר עדי מסירה, a woman who wants to remarry must bring the ע"מ in whose presence the גט was transferred.] The ע"מ will see if anything was changed in the גט. Therefore there is no concern for זיוף.

<sup>4</sup> ג, ב.

- **beginning of our מסכת** -

שאינ העדים חותמין על הגט אלא<sup>5</sup> מפני תיקון העולם<sup>6</sup> –

**‘That witnesses sign on a גט only on account of a global beneficial enactment.’**

ר"מ regarding רש"י cites and disagrees with תוספות

אבל מה שפירש בקונטרס דלרבי מאיר אשה הבאה לינשא בגט הכתוב על דבר שיכול להזדיין -

However this which רש"י explained that according to ר"מ, a woman who comes to remarry with a גט which is written on a להזדיין; this woman -

אינה צריכה עדי מסירה ועדים החתומים בו אינה מביאה לפנינו אם יש מכירין חתימתן<sup>7</sup> -

Does not require ע"מ at all,<sup>8</sup> and she does not bring the ע"ח who signed the גט, if there are others who recognize their signature

ואי הוה ביה תנאה וזייפתיה ליכא דידע -

So if there was a stipulation in the גט (detrimental to the woman) and she forged it (removing or altering that stipulation) no one will know. Therefore according to ר"מ a גט cannot be written on a להזדיין. This concludes פרש"י comments תוספות -

משמע<sup>9</sup> דאי הוי סהדי קמן הוה כשר -

It seems from רש"י that if the עדים were brought before us it would be כשר (if the woman brought the actual ע"ח or ע"מ)<sup>10</sup> -

ואי אפשר לומר כן דלרבי מאיר בעינן שיהא מוכח מתוכו כדמשמע<sup>11</sup> בריש כל הגט (לקמן כד, ב) -

<sup>5</sup> This מפני תיקון העולם not מן התורה are required עדי חתימה ר"מ cannot follow משנה 5.

<sup>6</sup> This is the view of ר"א that a גט does not require ע"ח, only ע"מ. However the חכמים instituted תיקון העולם that מפני תיקון העולם עדים should sign on the גט, so in case the ע"מ are not available, the גט will be validated through the signatures of the ע"ח. It is evident that ע"ח can also validate a גט (without ע"מ) in those cases where the גט was written on a להזדיין.

<sup>7</sup> A woman in order to remarry with a גט only needs to authenticate the signatures of the ע"ח; she is not required to bring them in person.

<sup>8</sup> ר"מ maintains ע"ח כרתי, so no ע"מ are required.

<sup>9</sup> רש"י stated that the reason that a גט is not written on a להזדיין (according to ר"מ) is because ע"מ are not required and the woman does not bring the ע"ח to authenticate her גט, rather she brings עדים who recognize their signatures (however they know nothing about the גט), so the woman can alter the גט and no one will be the wiser. It seems however if she would bring the ע"ח (or ע"מ) there should be no problem since they will recognize if anything was changed. תוספות takes issue with this inference. See ‘Thinking it over’.

<sup>10</sup> See 37-39 # אוצר מפרשי התלמוד whether we are referring to the ע"ח or ע"מ.

<sup>11</sup> The משנה there rules that if a man has two wives with the same name and he wrote a גט to divorce the older of the two (and changed his mind), he cannot use it to divorce the younger one. The גמרא inferred that he can however divorce the older one, and the גמרא concluded that this is only according to ר"א (who maintains כרתי), however according to ר"מ (who maintains ע"ח כרתי) he cannot use it even to divorce the older one. The reasoning is that according to ר"מ when the תורה writes כריתות the word וכתב refer to the חתימת העדים (the ע"ח) [we know that he wrote this גט (the וכתב), since the signature of the עדים attest to it]; meaning that in this גט which the עדים sign we are told the entire story of this גירושין. This is the meaning of מוכח מתוכו it needs to be evident from the signed document what actually took place. Any information which we receive from an outside source (other than the גט) even if it is from the oral testimony of the ע"ח, is not acceptable for it is not מוכח מתוכו. [According to ר"א that וכתב refers to the writing of the גט and no עדים are required to sign; we only need מסירה, there is therefore no rule of מוכח מתוכו, we rely on the testimony of the מסירה (and occasionally [when it is a להזדיין] on the ע"ח).]

**And it is impossible to say this** (that the גט will be כשר if the ע"ח (or ע"מ) come and testify that nothing was altered), **for according to מ"ר we require that it should be מוכח מתוכו**, as it seems in the beginning of הגט -

**ובדבר שיכול להזדייף אין מוכיח מתוכו<sup>12</sup> כלום:**

**And** when the גט is written on a דבר שיכול להזדייף, **nothing is מוכח מתוכו**.

### **Summary**

A woman must bring ע"מ (according to ר"א), only if it is a דבר שיכול להזדייף, otherwise we can rely on the ע"ח. According to מ"ר even if she brings עדים that nothing was changed it is not effective since it is not מוכח מתוכו (רש"י seems to disagree).

### **Thinking it over**

According to (understanding of) רש"י that if the ע"ח come before us it will be כשר even according to מ"ר;<sup>13</sup> what is the difference between מ"ר who is פוסל on a כתב עדים and ר"א who is מכשיר, since both agree (and require) that if the עדים come before us (the ע"ח according to מ"ר, or the ע"מ according to ר"א), it will be valid?!<sup>14</sup>

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<sup>12</sup> When we look at this גט we do not know whether it was altered or not, so even though the ע"ח/ע"מ testify that it was not altered; we do not know it from the גט itself, therefore it is not כשר. That is why מ"ר rules that a גט may never be written on a דבר שיכול להזדייף for we will never ascertain from the גט whether it was changed or not.

<sup>13</sup> See footnote # 9.

<sup>14</sup> See נחלת משה and תפארת יעקב.