

Rabi Elozor validates them all

רבי אלעזר מכשיר בכולן –

OVERVIEW

The משנה states that one who writes the טופס¹ of various documents (including גיטין and שטרי מקה, etc.) should leave blank the names of the parties and all the other relevant information,² to be inserted later. ר' יהודה rules that this is not valid, while ר"א maintains it is valid by other documents, but not by גיטי נשים. There is a dispute between רש"י and תוספות as to the view of ר"א.

פירש בקונטרס³ ובלבד שיניח מקומות הללו -

explained the view of ר"א that he is מכשיר בשאר שטרות **provided that he leaves blank these places** to insert the names, etc.

פרש"י asks on תוספות:

וקשה לרבינו יצחק דבגמרא⁴ פסיק רב כרבי אלעזר⁵ וקאמר אפילו בשטרות -

And the ר"י has a difficulty with פרש"י, for רב in the גמרא rules like ר"א (of our משנה), and the גמרא states, did רב mean that the הלכה is like ר"א even by שאר שטרות (where he permits it), but that cannot be -

והאמר רב פפי כולי⁶ אלמא מחזי כשיקרא הכא נמי מחזי כשיקרא⁷ -

For רב stated, etc.; it is evident that we are concerned if something appears to be false, here too it appears to be false. This concludes the citation from the גמרא, and רש"י continues with his question on תוספות -

ואי לא מכשיר רבי אלעזר אלא בטופס דשטרות מה מחזי כשיקרא איכא -

But if (as רש"י maintains) that ר"א was only to write the טופס of שאר שטרות, how is this מחזי כשיקרא, nothing meaningful was written -

מאחר שהניח מקום המלוה והלוה והמעות⁸ -

¹ The טופס is the text of the document which is the same regardless of who the parties are.

² This is called the תורף.

³ בד"ה ור' אלעזר.

⁴ כו, ב.

⁵ That by גיטי נשים it is פסול if they wrote the טופס without the תורף.

⁶ (הנפק or אשרתא דדייני) שטר (this is called the הנפק), they should not write this before the עדים testify that it is their signature, for it appears to be false (מחזי כשיקרא); how can they write that these signatures are notarized if at this point they do not know whether these are proper signatures.

⁷ How can one write a note of debt, since no loan has taken place yet; it is מחזי כשיקרא?!

⁸ In the ruling of רב פפי where בי"ד writes that this שטר is notarized that is מחזי כשיקרא, for as of now we do not yet know that the signatures are authentic, but here nothing meaningful was written, since there are no names and no amount of money, etc. it is merely the verbiage of a common loan document.

Since he left space to insert the lender, and the borrower and the money?!

תוספות has an additional question:

ועוד⁹ משמע דלא פריך מדרב פפי אלא משום דפסיק רבי אלעזר¹⁰ -

And additionally, it seems that there is a question from the ruling of ר"פ only because רב ruled like ר"א, it therefore seems that -

אבל אי הוה סבר כרבנן הוה ניחא ליה -

If, however, רב would agree with the רבנן (that one may write the טופס by all גיטי נשים even שטרות), it would be understood -

ואי שייך בטופס מחזי כשיקרא אפילו סבר כרבנן תקשי לרב פפי -

But if רב would agree to the רבנן, there would still be the difficulty with רב פפי!

ר"א offers his interpretation of תוספות:

ונראה לרבינו יצחק דרבי אלעזר מכשיר בשטרות אפילו תורף¹¹ -

And it is the view of the ר"י that ר"א validates by שטרות even if he writes the תורף also -

והשתא מיחזי כשיקרא שכותב פלוני לזה מפלוני ועדיין לא לזה -

So now (we can understand the קשיא from רב פפי, for) it is מיחזי כשיקרא when he writes that someone borrowed from someone, but in truth he did not borrow yet. תוספות continues explaining the view of ר"א namely, that by שטרות one may even write the תורף -

חוץ מגיטי נשים דפסיל אפילו טופס -

Except for גיטי נשים where ר"א disqualifies the טופס even if only the טופס was written. We know this -

מדקתני¹² משום שנאמר וכתב לה משמע דפסיל בגיטי נשים טפי מתנא קמא -

⁹ The ועוד is adding that even if you can somehow explain that just writing the טופס is also כשיקרא (?), nevertheless there is still a difficulty with פרש"י.

¹⁰ The sequence of the גמרא on the עמוד ב' is that first רב ruled that the הלכה is like ר"א. The גמרא then asked, this seems to mean that the הלכה is like ר"א even שטרות (which means [according to רש"י] that you may write the טופס before the תורף), but this is מחזי כשיקרא according to רב פפי. The question from רב פפי is predicated that רב ruled like ר"א; indicating that if רב ruled like the רבנן, there would be no question from רב פפי, but this is inherently not so, for the רבנן and ר"א do not argue שטרות, both maintain that one may write the טופס without the תורף, therefore the same question that there is according to ר"א is just as valid according to the רבנן!

¹¹ See 'Thinking it over.'

¹² תוספות needs to prove that ר"א is פוסל even writing the נשים בגיטי טופס, for since תוספות just concluded that according to ר"א by שטרות it is permitted to write even the תורף, so when the משנה states חוץ מגיטי נשים, we could interpret it to mean that by כולן one may write even the תורף but not by נשים, where one may only write the טופס. Therefore תוספות proves that this is not so, for if ר"א maintains like ת"ק that one may write the טופס, why give a reason לה שנאמר וכתב there is no need to give this reason since we see the ת"ק also maintains that one may only write the טופס without giving any reason. Therefore we must conclude that ר"א is citing

Since the משנה states, as a reason why גטי נשים is the exception, 'because it is written **ת"ק**'¹³; this indicates that ר"א is פוסל by נשים more than the **ת"ק** 'וכתב לה'.

asks: תוספות

ואם תאמר ומנא ליה לגמרא דרבי אלעזר מכשיר בשטרות אפילו תורף דפריך מדרב פפי¹⁴ -
And if you will say, but how does the גמרא know that ר"א permits writing even
the תורף by שטרות, so it can challenge this ruling from the ruling of רב פפי -
דלמא בטופס דשטרות דווקא מכשיר -

Perhaps ר"א is only מכשיר writing the טופס by שטרות but not the תורף.

answers: תוספות

ויש לומר דאם איתא דלא מכשיר אלא בטופס היה לו לקבוע דברי רבי אלעזר אחר תנא קמא -
And one can say; if indeed this is so that ר"א only permits writing the טופס, the
משנה should have set the words of ר"א immediately after the **ת"ק** -
והיה לו לקצר ולשנות רבי אלעזר פוסל בגיטי נשים¹⁵ ור' יהודה פוסל בכולן¹⁶ -
And the משנה should have taught us briefly (after stating the view of the **ת"ק**) that
ר"א is פוסל (to write the טופס) by נשים and ר"י is פוסל (to write the טופס) by all
שטרות -

offers another reason why the משנה should be in this order: תוספות

וגם היה ראוי לשנות בסדר זה שכל אחד מחמיר משלפניו¹⁷ -
And it is also proper to teach the משנה in this order where each view is stricter
than the previous one; this would be so if ר"א only permits writing the טופס -
אבל אי רבי אלעזר אתא לאכשורי בשטרות אפילו תורף נחא -
However if ר"א comes to permit by שטרות to write even the תורף (as תוספות
maintains), the order of the משנה is properly understood -
דתנא דברי רבי יהודה קודם משום דקאי אתנא קמא דאיירי בטופס -

the תוספות of פסוק לה וכתב לה to teach us that everything must be written even the טופס. [Had we learnt not like תוספות but rather that ר"א is מכשיר by שטרות only the טופס then obviously without any proof we know that by נשים one cannot write even the טופס since the משנה states מכשיר בכולן (to write only the טופס) where one cannot (obviously) write even the טופס.]

¹³ The **ת"ק** equates גיטי נשים with שטרות that in all cases one may write the טופס without the תורף. However, ר"א argues with the **ת"ק** both by שטרות where he permits even writing the תורף before the loan took place, and he also disagrees by נשים that one may not even write the טופס, unless the husband is prepared to give a גט.

¹⁴ We know that ר"א is מכשיר the תורף, only because the גמרא asked from רב פפי (that it is כשיקרא), but how did the גמרא, who asked from רב פפי, know that this is the view of ר"א.

¹⁵ There is no need to say that ר"א is מכשיר by שטרות, since that is the view of the **ת"ק** as well.

¹⁶ In actuality however, the משנה first cites the view of ר"י after the **ת"ק** and finally it elaborates (slightly) when citing the view of ר"א.

¹⁷ The **ת"ק** always permits writing the טופס and ר"א permits it by שטרות but not by נשים, and ר"י prohibits it in all cases.

For the משנה cited the view of ר"י before ר"א, since ר"י is referencing the ת"ק who is discussing the טופס only (that the שטרות of all טופסים may be written and ר"י argues that no טופסים may be written), and then we have the view of ר"א introducing a novel concept that by שטרות even the תורף may be written -

ורבי אלעזר בשטרות מכשיר טפי מתנא קמא ובגיטין פסיל טפי:

So it turns out that ר"א is more lenient than the ת"ק by שטרות (since he allows even the תורף and they only allow the טופס), **but by גיטין he is more stringent** (for they allow the טופס and ר"א allows nothing).

SUMMARY

According to רש"י, ר"א only permits writing the טופס by שטרות, however according to תוספות, ר"א permits even writing the תורף by שטרות (therefore it may be כשיקרא), but by גטי נשים he may not write even the טופס.

THINKING IT OVER

1. How can we explain (according to תוספות) the מחלוקת between ר"א (who maintains that by שטרות one may even write the תורף as well as the טופס),¹⁸ and the ת"ק (who maintains that one may only write the טופס, but not the תורף)?

2. According to תוספות one may even write the תורף before there is a loan (according to ר"א).¹⁹ The תורף also includes the date of the loan, so how can they write the date when the loan will take place later so it will be a *predated שטר*, which is *לקוחות שלא כדין*?²⁰ since the מלוה will collect from the פסול,

¹⁸ See footnote # 11.

¹⁹ See footnote # 11.

²⁰ See *נחלת משה* and *מהר"ם שי"ף*.