

**הכא נמי גזירה שמא יאמרו גיטה קודם לבנה – Here too, it is an enactment;  
Perhaps they will say her *Get* preceded her son**

### OVERVIEW

The גמרא explained that the reason the סופר should leave out the date when writing a גט for an ארוסה (according to the מ"ד משום פירי) is because we are concerned if the סופר writes the current date and he will marry (and divorce) her at a later date, and she will have a child after the date of the גט; this will cause many uncomfortable rumors about the situation. תוספות discusses this concern.

תוספות asks:

**ואם תאמר מה קפידא הוא שיכתוב הסופר זמן -**

**And if you will say; what concern is there if the סופר writes the current date -**

**והא ליכא למיחש שיבא לגרש בגט זה אחר נישואין -**

**- נישואין אחר גט זה לא יחתמו לו<sup>1</sup> דחזו שהוא מוקדם ואיכא למיחש בנישואין משום פירי<sup>2</sup> -**

**Since there is no concern that he will divorce her with this גט after the נישואין -  
שהרי עדים לא יחתמו לו<sup>1</sup> דחזו שהוא מוקדם ואיכא למיחש בנישואין משום פירי<sup>2</sup> -  
For the witnesses will not sign this גט for him, for they will see that it is pre-dated, and by a נשואה there is concern for a pre-dated גט, because of פירי?!**

תוספות answers:

**ואומר רבינו תם דכיון שרואין העדים שכתב בגט ארוסתי יחתמו אחר הנשואין -**

**And the גט, they see that 'ארוסתי' is written in the גט, they will sign it even after the נישואין -**

**כי יסברו דעודה ארוסה<sup>3</sup> -**

**For they will assume that she is still an ארוסה, so there is no פירות issue, since by an ארוסה the husband does not receive פירות –**

<sup>1</sup> The עדים are not signing now when the סופר is writing the טופס (for there are no names and the husband did not tell them to sign, etc.), rather they sign when the גט is ready to be given after the נישואין (that is where there is the concern of קודם לבנה). The עדים however will not sign it because they see it is a pre-dated גט, which is invalid for the גירושין of a נשואה. See 'Thinking it over' # 1.

<sup>2</sup> The husband has a right to eat the fruits of his wife's assets during the נישואין; however he loses this right when he divorces her. The date on the גט precedes the actual divorce, therefore the עדים will not sign this גט, because it will deprive the husband from the פירות (between the date and the actual divorce) to which he is entitled. It will hurt the customers who bought פירות from the husband before the divorce and after the date on the גט (which preceded the divorce). The woman will present this pre-dated גט and force the לקוחות to give back the פירות which were purchased after the date in the גט, when in truth they are entitled to these פירות since there was no divorce yet. [תוספות (seemingly) could have said that they will not sign it (after the נישואין) out of concern that לבנה קודם גיטה.]

<sup>3</sup> Therefore once they sign the earlier date, people will say גיטה קודם לבנה.

asks: תוספות

ואם תאמר כשיניח מקום הזמן נמי ויכתבו זמן ביום גרושין -

And if you will say, even if the סופר leaves the date blank and they will write the date on the day of the divorce, nevertheless -

איכא למיחש שיאמרו גיטה קודם לבנה כיון שרואין שכתוב בגט ארוסת<sup>4</sup> -

There still is the concern that people will say, גיטה קודם לבנה, since they see that 'ארוסת<sup>4</sup>' is written in the גט -

וסבורין שלא ניסת לו מעולם<sup>5</sup> -

So they will assume that she never married him -

וגם יפסידו הלקוחות פירות שמכר להם הבעל שלא כדין<sup>6</sup> -

And also, the buyers will unfairly lose the פירות which the בעל sold them -

דיאמרו ארוסה היתה ואין לו פירות<sup>7</sup> -

For people will say she was an ארוסה and he is not entitled to פירות!

answers: תוספות

ויש לומר דלקוחות לא יקנו פירות אם לא שידעו שנשואה<sup>8</sup> היתה ויביאו עדים על כך -

And one can say; that לקוחות will not buy פירות from the husband, unless they know that she was a נשואה, and they will bring witnesses to substantiate it, if she claims she never was a נשואה -

וגם על בנה ידקדקו ויראו שנתעברה לפני הזמן הכתוב בגט ויתברר הדבר שניסת<sup>9</sup> -

And also regarding her son, people will investigate and realize that she became pregnant before the date which was written in the גט, and the fact will be established that she was married (not only an ארוסה) -

offers an alternate solution: תוספות

אי נמי יש לדבר קול שנישאת אלא שאין זמן הנישואין ידוע כל כך -

<sup>4</sup> We are permitting the סופר to write the text of an ארוסה גט, where he writes ארוסת<sup>4</sup>. Leaving the date blank does not resolve the issue of גיטה קודם לבנה and פירות, if the husband uses this גט to divorce her after the נישואין.

<sup>5</sup> People will say the child was born without נישואין.

<sup>6</sup> There was נישואין, so the husband owns the פירות and may sell them. However the woman will later claim (based on the ארוסה גט) that there was never any נישואין and therefore the husband has no rights to the פירות, and she will [unfairly] force the לקוחות to pay her back (or return) the פירות, which her husband (rightfully) sold to them.

<sup>7</sup> The question is that there is seemingly no difference whether the סופר writes the current date or not, for in either case there is the concern of גיטה קודם לבנה and פירות!

<sup>8</sup> They will not buy פירות from the husband unless they know that there was נישואין, for they know that ארוסה לית ליה פירי, and if they buy it during אירוסין the woman will take it back.

<sup>9</sup> Let us assume that the סופר is writing the גט on ר"ה ניסן ת"ש. The נישואין was ר"ה אייר ת"ש. The child was born ר"ה חשוון תש"א. He divorced his wife on ר"ה חשוון תש"א. Therefore, if the סופר writes the date of ניסן ת"ש, people will say ר"ה חשוון תש"א since he was born eleven months after the גט. However if we write the actual date of ר"ה חשוון תש"א, we will know that the child was conceived (before the divorce) while they were still married.

**Or you may also say; נישואין has publicity; however the precise date of the נישואין is not known that well,** so if the date of the actual divorce is written -

**וידעו דמה שכתוב בגט ארוסתי לפי שנכתב קודם נישואין -**

**Then people will know that this word 'ארוסתי', which is written in the גט is because the גט was written before the נישואין,** but there will be no concern regarding - נשואה<sup>10</sup> since it is known that she was a נשואה - פירות and גיטה קודם לבנה

**אבל אם נכתב זמן של קודם נישואין יאמרו כל שעה דגיטה קודם לבנה<sup>11</sup> -**

**However if the date prior to the נישואין was written (the date on which the סופר wrote the גיטה קודם לבנה), people will continually say that**

Tosfos asks:

**אבל קשה דלמה לן טעמא דגיטה קודם לבנה -**

**However there is a difficulty; for why do we need the reason of גיטה קודם לבנה** in order to explain why the date needs to be left blank -

**כיון שהיא נשואה<sup>12</sup> וכתוב בו זמן של אירוסין יפסל למאן דאמר משום פירי<sup>13</sup> -**

**Since she is a נשואה and it is dated from the time of אירוסין, so it is פסול according to the one who maintains that זמן was instituted by גיטין because of פירי, for this גט is -**

**כמו גט שאין בו זמן כלל שאין שום הוכחה מתוך זמן הכתוב בגט זה:**

**Like a גט which has no זמן at all, for there is no proof from the זמן which is written in this גט,** as to when the husband still has פירות. Our Tosfos does not offer an answer.<sup>14</sup>

<sup>10</sup> The date will prove that she conceived prior to this date and that the husband has פירות up to this date, since we all know that she was a נשואה. See 'Thinking it over' # 2.

<sup>11</sup> Let us assume it was written and dated on ר"ח חשוון. The baby was conceived on ר"ח כסלו, the baby was conceived on ר"ח טבת, and the actual divorce was on ר"ח אדר. People will say the נישואין was on טבת and the baby was conceived out of wedlock. However, we are not concerned that the לקוחות will lose פירות (for the wife will claim I was divorced from the זמן הגט), since it was a גט ארוסה and we all know that she was a נשואה, the לקוחות will argue that it is a wrong date and it is up to the woman to prove the right date when there was נישואין and when she was divorced (for the לקוחות are the מוחזקים). However regarding the gossip about the child, there is no way to prevent it; if they will write the date when the גט אירוסין was written, people will always suspect that the child was conceived before the נישואין; it will be hard to quell these rumors.

<sup>12</sup> This question is on the א"נ which assumes that קול יש לה קול.

<sup>13</sup> See מהרש"א who understands Tosfos question to be that the גט should be פסול, since the woman may lose out on the גט (like a גט שאין בו זמן). The woman was divorced on ר"ח ניסן the husband sold פירות until ר"ח אייר; the גט (which was written as a גט לארוסה) was dated from ר"ח אדר. The לקוחות will claim that the date on the גט is meaningless, since we all know that she is a נשואה (not an ארוסה) and the woman may not have proof that she was divorced in ניסן and not in אייר. See footnote # 14.

<sup>14</sup> See Tosfos הרא"ש who answers this question (that there is a קול). It seems from his answer that the הרא"ש did not understand the question as the מהרש"א explained it. (see footnote # 13)

## **SUMMARY**

עדים will sign a pre-dated גט אירוסין (even after the נישואין), for they will assume that she is still an ארוסה (so there is no פירי issue). An actual divorce date will insure that there are no problems of פירי and גיטה קודם לבנה.

## **THINKING IT OVER**

1. תוספות asks that it should not matter that the סופר will write the current date in an ארוסה גט, since the עדים will not sign it (after the נישואין).<sup>15</sup> However it is possible that if we allow the סופר to write the date, the husband will have the עדים sign it while she is still an ארוסה, and they will comply (since פירי לה), and he may hold the גט until after the נישואין, so there remains the concern of גיטה קודם לבנה (and פירות)?<sup>16</sup>

2. תוספות writes that if they will write the correct זמן in the שטר the לקוחות will not lose the פירות even though it states ארוסה.<sup>17</sup> However the problem is the reverse, for if the husband sells them פירות after the actual divorce, when she will show the date on the גט (which preceded the sale), the לקוחות will claim that this is the date of the אירוסין גט, but in actuality you were a נשואה and were divorced after this date (and after the husband sold us the פירות)!<sup>18</sup>

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<sup>15</sup> See footnote # 1.

<sup>16</sup> See מהרש"א הארוך.

<sup>17</sup> See footnote # 10.

<sup>18</sup> See נחלת משה.