

## הא אמר תנו נותנים (כו') ואפילו לזמן מרובה –

**But if he said, 'give', we give (etc.), even after an extended time**

### OVERVIEW

The משנה states if a גט was lost and found immediately it is כשר, otherwise it is פסול. The גמרא cited a משנה which seemingly challenges our משנה. This other משנה states if one found a גט, etc. he should not return it (to anyone), for we are concerned perhaps the husband changed his mind and does not wish to divorce his wife. The גמרא infers from this משנה, that if the husband said to give it to her, we will give it to her (presumably because there is no longer the concern of נמלך עליהם), and even after an extended period of time. This contradicts our משנה. Our תוספות discusses how these inferences (הא אמר תנו נותנים, and ואפילו לזמן מרובה) were deduced.

תוספות asks:

**תימה מנא ליה למידק הא אמר תנו<sup>1</sup> נותנים<sup>2</sup> דלמא אפילו אמר תנו<sup>3</sup> אין נותנים -**

**It is astounding; how did the גמרא know to infer, 'but if he said "give", we give', perhaps that משנה meant, even if he said 'תנו', we do not give' -**

**משום דחיישינן דאין זה הגט שנכתב לו אלא נפל מאחר ששמו כשמו -**

**Because we are concerned that this גט which was found is not the גט, which was written for this husband, but rather it fell from another person who has the same name -**

**והכי פירוש נמלך עליה<sup>4</sup> ועדיין לא נתנו -**

**And this is the explanation of what the משנה there states 'ליתנן' שלא עליהן,**

<sup>1</sup> This can either mean, give her this גט and she should be divorced with it, or that it is her גט which she already received from me and she lost it.

<sup>2</sup> There are two concerns regarding this found גט (assuming that it was never given to the woman). Either that this is the correct גט, but it was never given to her, or this is not the גט at all but rather someone else's גט. Therefore there are two ways to understand נמלך עליהן שלא ליתנן; either that the husband perhaps never gave her the גט, so we cannot give it to her for the husband does not want to divorce her (but not that we are concerned that this is not the correct גט). However if he says תנו (see footnote # 1), there is no longer this concern and we give her the גט. This seems to be the understanding of the גמרא. However (תוספות is suggesting perhaps) the concern of נמלך עליו may mean that the husband decided not to give her the גט, and this גט, which was found, is someone else's גט; in that case even if אמר תנו the rule should be ליתנן.

<sup>3</sup> This can also mean that the husband is saying, 'give it the wife since I already divorced her with this גט'.

<sup>4</sup> Therefore we cannot give her the גט, even if he says תנו, for perhaps it is not the correct גט. See תוספות there in ב"מ. That the concern of נמלך is based on the fact the גט was lost, meaning that the reason it was lost is because נמלך so therefore he was not careful with it. We therefore assume that when it says תנו it means that she should now be divorced with this גט; however this cannot be done since it may not be the correct גט.

**that he changed his mind and did not give it as of yet -**

**הא אי לא הוה חיישינן לנמלך היו מחזירים לה את הגט<sup>5</sup> אפילו אינו שלה -**

**However if we would not be concerned for נמלך (meaning we assume that he gave her the גט already), we would return the גט to her even I it is not her** -

**כיון דאינה צריכה אלא לראיה -**

**Since she only needs it as a proof that she is divorced. It makes no difference what document she holds.**

answers: תוספות

**ואומר רבינו יצחק דדייק מדקתני ונמלך ולא קתני שאני אומר כתובין היו ולא נתנן<sup>6</sup> -**

**And the ר"י says that the גמרא infers that תנו נותנין אמר, since the משנה stated, 'and he reconsidered'; but it did not state, 'that I assume they (the גט, etc.) were written but he did not give them' -**

**משמע דנמלך וחזר בו ואינו רוצה לגרשה עוד -**

**Indicating that he reconsidered and changed his mind and does not want to divorce her anymore, that is why we do not return it to her -**

**אבל אם היה רוצה היה מגרשה בגט זה ולא חיישינן שמא מאחר נפל -**

**However if he would want, he could divorce her with this גט, for we are not concerned that it fell from someone else; we assume it is the correct גט -**

proves that we derive 'הא אמר תנו נותנין' from the word 'ונמלך': תוספות

**ובהדיא גרסינן בפרק קמא דבבא מציעא (דף יח, א) בכל הספרים טעמא דנמלך כולי -**

**And in all the texts in the first פרק of מ"ב, it explicitly states, 'the reason we do not return it is because of נמלך, etc., but if he said תנו we give it to her.**

asks: תוספות

**ואם תאמר ומנא ליה אפילו לזמן מרובה דלמא לאלתר דוקא כדפריך רבי זירא לקמן<sup>7</sup> -**

**And if you will say; but how does the גמרא know that we return it even after an extended time, perhaps we return it (if אמר תנו) only if it was found immediately, as זירא ר' asked later -**

<sup>5</sup> Presumably this is only if he said I divorced her, otherwise how can we return it perhaps it is not the correct גט. We would have believed the husband if not for the concern of 'נמלך'. See 'Thinking it over' # 1.

<sup>6</sup> If the reason for not returning the גט (even if he says תנו) was because we are concerned this is not the proper גט, the משנה should have written that it is not returned because they were never given, since however the משנה gives the reason of נמלך, we can assume that if there is no נמלך (he says תנו) it may be given to the woman.

<sup>7</sup> See on the ב' עמוד. We find that זירא ר' contradicted our משנה which permits us to return the גט only if it was found immediately, with a ברייתא which allows us to return the גט even מרובה לזמן (according to זירא ר'). The גמרא explained the reason זירא ר' did not contradict our משנה with the משנה of גיטי נשים (which רבה resolved) is because perhaps that משנה permits us to return the גט (if אמר תנו) only לאלתר. Why does רבה disagree with ר"ז in this?

An additional question:

**ורבי זירא נמי אמאי פשוט לו מברייתא דיחזיר לאשה אפילו לזמן מרובה טפי ממתניתין -**  
**And additionally why did ר"ז infer more readily from the ברייתא of לאשה,**  
that it means **even לזמן מרובה, more so than from the משנה of** גיטי נשים, which  
according to ר"ז may mean only לאלתר, but not לזמן מרובה?!

answers: תוספות

**ואומר רבינו יצחק דדייק מדאיצטריך ונמלך<sup>8</sup> לאשמועינן דאם אמר תנו נותנין -**  
**And the ר"י says that רבה (גמרא) infers that it is returned even לזמן מרובה,**  
**since we require 'ונמלך' to teach us that if אמר תנו נותנין -**  
**ולא חיישינן לגט אחר היינו אפילו לזמן מרובה דאי לאלתר פשיטא<sup>9</sup> דאין חוששין לגט אחר -**  
**And we are not concerned that it may be another גט, therefore it must mean**  
**even לזמן מרובה, for if it only means לאלתר, it is obvious that we are not**  
**concerned אחר לגט, and the משנה did not have to say ונמלך to teach us that אמר תנו נותנין -**  
**ורבי זירא סבר דהא דקתני ונמלך אורחא דמילתא נקט דלפי שנמלך לא נתנו -**  
**However ר"ז maintains that this which the משנה wrote 'ונמלך', it was just in a**  
**manner of speaking, meaning that since he was נמלך, he did not give it -**  
**ולא לדקדק הא אמר תנו נותנין<sup>10</sup> -**

**But the משנה did not write ונמלך so we should infer that אמר תנו נותנין and**  
אפילו לזמן -  
משנה; this is concerning the -

**אבל מברייתא דייק שפיר דיחזיר אפילו לזמן מרובה דאי לאלתר פשיטא<sup>11</sup> -**  
**However ר"ז properly infers from the ברייתא that we return it even לזמן מרובה,**  
**for if we return it only לאלתר, it is obvious, the ברייתא need not tell this to us.**

אפילו לזמן מרובה offers an alternate solution how we derive תוספות

**ועוד<sup>12</sup> אומר רבינו יצחק דדייק אפילו לזמן מרובה -**  
**And additionally says the ר"י that רבה inferred that we return it even לזמן מרובה -**  
**דמשמע ליה דומיא דשטרי חליצה<sup>13</sup> ומיאונין (שם דף כ, א) דמיירי לזמן מרובה -**

<sup>8</sup> See previously in this תוספות (footnote # 6) that the inference of נותנין, אמר תנו, is based on the משנה writing 'ונמלך'.

<sup>9</sup> This concept that לאלתר it is פשיטא that we return it, is agreed to by both רבה and ר"ז.

<sup>10</sup> According to רבה the 'ונמלך' is qualifying the rule, we do not return it because he was נמלך, indicating that if אמר תנו (he was not נמלך), we return it. While ר"ז maintains that 'ונמלך', is merely stating a fact, the גט was found, so perhaps he never gave it to her because he was נמלך. See footnote # 4, quoting from 'ב. מ"מ in תוס' See 'Thinking it over' # 2.

<sup>11</sup> The difference between the משנה and the ברייתא is that in the ברייתא it clearly states יחזיר, so it must mean לזמן מרובה since לאלתר it is פשיטא and there is no need to inform us of this ruling (see footnote # 9). However the משנה merely states we do not return it, the question is whether the term 'ונמלך' can be utilized as an inference that אמר תנו נותנין, so while רבה maintains there is an inference, ר"ז maintains there is no inference (see footnote # 10).

<sup>12</sup> This answer does not (need to) assume that לאלתר it is פשיטא that מחזירין (as the previous answer assumed).

<sup>13</sup> שטר חליצה is a document that בי"ד gives to a יבמה which states she went through the חליצה process and is no longer זקוקה ליבום, and is permitted to marry whom she pleases.

**For it seems to רבה that the מצא גיטי נשים of משנה is similar to the משנה regarding finding – לזמן מרובה<sup>15</sup>, שטרי חליצה ומיאון<sup>15</sup> which we return it and even in a case of**

לזמן מרובה proves that שטרי חליצה ומיאון are returned even תוספות

**דעל כרחך התם לא איצטריך לאשמועין דיחזיר אלא כשאנו ידוע אם חלצה או מיאנה -**  
**שטרי חליצה ומיאון that the שטרי חליצה ומיאון For perforce it was not necessary there to inform us that**  
**be returned unless it is not known whether she was חלצה or מיאנה -**

**דבידוע שחלצה או מיאנה פשיטא דיחזיר אפילו אינו שלה כיון דאין צריכה אלא לראיה<sup>16</sup> -**  
**For if it was known (through witnesses) that חלצה or מיאנה it is obvious that it**  
**should be returned even if this שטר חליצה ומיאון שטר is not hers, since she only needs**  
**this שטר as proof that חלצה ומיאנה so she should be able to remarry -**

**וכיון דבאינו ידוע מיירי על ידי מה שנמצא לאלתר לא ידעין כלל שהוא שלה<sup>17</sup> -**  
**So since we are discussing a case where it is not known whether חלצה ומיאנה, so**  
**the fact that it was found immediately, does not inform us at all that this is her**  
**- שטר חליצה ומיאון**

**כיון דאינו ידוע שנכתב לה שטר חליצה מעולם<sup>18</sup> -**  
**Since we do not know that a שטר חליצה or מיאון was ever written for her.**  
Therefore since by שטרי חליצה ומיאון we return it even לזמן מרובה, we can assume that by גיטין it is also returned לזמן מרובה since both משניות follow one another. This is how רבה infers that it is - אפילו לזמן מרובה. This is the view of רבה -

**ורבי זירא לא מוקי לה דומיא דסיפא -**  
**However ר"ז does not establish the רישא (המביא גט of משנה) similar to the**  
**לזמן מרובה (סיפא), therefore there is no inference that it is לזמן מרובה -**  
**ומברייתא דייק שפיר דאפילו לזמן מרובה -**

**לזמן מרובה ר"ז infers properly from the ברייתא that it is returned even -**  
**דבזמן שהבעל מודה דמשמע דמודה שממנה נפל וכבר גירשה בו<sup>19</sup> -**

<sup>14</sup> This is the following משנה after מצא גיטי נשים. The משנה there states if one found חליצה ומיאון, we return it to the woman.

<sup>15</sup> שטרי חליצה ומיאון is written by בי"ד to a קטנה who was married מדרבנן, which testifies that this קטנה annulled the marriage (by stating she no longer wishes to be with her husband), and is no longer a married woman. מיאון means refuses.

<sup>16</sup> שטרי חליצה ומיאון are basically different from a גט, for the שטרי חליצה ומיאון do not permit the woman to marry (that is accomplished by the חליצה ומיאון), it merely proves she may marry, however a גט permits the woman to marry, as well as proving that she may marry.

<sup>17</sup> Let us assume that when one found the שטר חליצה which was dated on that day; that does not prove at all that it was written for this woman. This case is different from our משנה of ואבד גט ואבד, and then he found it immediately after he lost it, for in that case we can assume that he found the גט that he lost.

<sup>18</sup> Therefore the דין of יחזיר is even מרובה, since there is no difference between לאלתר and לזמן מרובה in this case.

<sup>19</sup> Tosfos is negating that בזמן שהבעל מודה means that he says, 'give it to her because I want to divorce her now'; rather it means he admits that he divorced her already. If it would mean that he wants to divorce her now, it should have said בזמן שהבעל מודה (or something similar), the phrase בזמן שהבעל מודה indicates that he admits to her claim that he already divorced her. See footnote # 21 (why it was necessary to make this negation).

For the phrase in the ברייתא of **בזמן שהבעל מודה**, indicates that the husband admits that she lost the גט, for he already divorced her with this גט -

ואי לאלתר דוקא אם כן ראינו גט בידה -

And if we return it only if it was found לאלתר, so we must have seen the גט in her possession -

דבלא ראינו גט בידה אין נפקותא במה שנמצא לאלתר כדפירשנו<sup>20</sup> -

For if we did not see the גט in her possession, there is no difference whether it was found לאלתר or לאחר זמן as we just explained<sup>21</sup> -

וכיון שראינו בידה פשיטא דיחזיר אפילו אינו שלה ואפילו אין הבעל מודה<sup>22</sup> -

So since we saw the גט in her possession (which means she was already divorced), it is obvious that we should return it, even if it is not her גט and even if the husband does not admit, so why does the ברייתא need to teach us such an obvious ruling -

אלא ודאי בשלא ראינו הגט בידה ואם כן אפילו לזמן מרובה:

Rather it is certainly in a case where we did not see the גט in her possession, so therefore it needs to be returned even מרובה לזמן, for if it is not in her possession there is no difference between לאלתר and מרובה, as תוספות pointed out twice.

## SUMMARY

We infer from 'ונמלך' that תנו נותנין; אם אמר תנו נותנין; we infer that it is מרובה either because לאלתר it is פשיטא, or because we compare it to ומיאונין (where there is no difference between לאלתר and מרובה and the same by גט).

## THINKING IT OVER

1. תוספות writes that if we are not חושש for נמלך (meaning that presumably he already divorced her), we would certainly return the גט to her for a ראייה, even though it may not be her proper גט.<sup>23</sup> However how can we return to her another גט; perhaps the dates are different and it will adversely impact the לקוחות who bought פירות from her husband?<sup>24</sup>

<sup>20</sup> See footnote # 17. ר"ז רבה both agree with this concept. Even if we found it on the same date that is written on the גט, why should we assume that this is her גט, perhaps it belongs to another couple; however if we know the גט was in her possession that day and it was found on the very same day, it leads us to believe that this is her גט.

<sup>21</sup> However if בזמן שהבעל מודה means that he wants to divorce her with this גט now (see footnote # 19) then there would be a difference between לאלתר and מרובה. If it was found on the date of the גט (meaning the husband lost it that day, then we can assume that this is his גט, however if it was found מרובה לזמן, it can be someone else's גט.

<sup>22</sup> All she needs the גט is for proof that she is divorced; it makes no difference which גט we give her.

<sup>23</sup> See (text by) footnote # 5.

<sup>24</sup> See נחלת משה.

2. Tosfos writes that the word 'ונמלך', according to ר"ז was not written in order to infer that אמר תנו נותנין.<sup>25</sup> Does this mean that according to ר"ז we cannot infer at all from that משנה (of ונמלך) that אמר תנו נותנין? However in the גמרא (on the עמוד ור' זירא וכו' מי קתני אם אמר תנו נותנין ואפילו לזמן מרובה, דלמא אם אמר תנו נותנין (ב') it states כדקי"ל לאלתר; indicating that we can infer אמר תנו נותנין; how do we infer this if not from the 'ונמלך'?!<sup>26</sup>

---

<sup>25</sup> See footnote # 10.

<sup>26</sup> See בחלת משה, and מהרש"א ומהר"ם.