

**הא קא משמע לן אף על גב דלא פסק כולי -**

**This informs us that even though he did not contract, etc.**

### **Overview**

The ברייתא, when it stated כשער הזול, means that even though he was not פסק, it is as if he was פסק. Our תוספות reconciles our גמרא with a seemingly contradictory גמרא.

asks: תוספות

וּאִם תֹּאמַר הָא נְמִי פְשִׁיטָא דְבִפְרָק אִיזְהוּ נִשְׁךְ (שם דף עב,ב) -

**And if you will say; this too (that אע"פ שלא פסק כמי שפסק דמי) is obvious, for in פִּרְק - איזוהו נשך**

אמר רבי יהודה<sup>1</sup> שיכול לומר לו תן לי כזה או תן לי מעותי -

**rules that he can tell (the seller), 'give it to me for this lower price, or give me back my money' –**

answers: תוספות

וּיֵשׁ לֹמַר דְּהֵתִם שְׂאוּמֵר לֹו בְּשַׁעַת הַזּוּל אֲבָל הֵכָא אֲפִילוּ שְׁתַּק עַד שֶׁהוֹקֵר הַשַּׁעַר:

**And one can say; that there he is saying it to him (תן לי כזה או תן לי מעותי), when the price is low. However here, even if the מלוה was silent when the price was low until the price rose, nevertheless he can still receive it at the שער הזול even if פסק לא.**

### **Summary**

The novelty here is that he can receive the תרו"מ בשער הזול even after the price rose.

### **Thinking it over**

is asking that according to ברייתא it is פשיטא<sup>2</sup> ר' יהודה. However perhaps this ברייתא is according to the רבנן who argue with ר"י and maintains that you cannot say תן לי כזה if you were not פוסק<sup>3</sup>?! פוסק

<sup>1</sup> The case there is where a buyer gave money to a seller for a certain item (the price to be determined at a later date). When the price is low the buyer can tell the seller, give me this item for this lower price, otherwise return my money back. Similarly here too the מלוה can say to the כהן, give me the תרומה for the lower price (which will be deducted from your loan), or give me back the money which I lent you. What is the חידוש in saying 'אע"פ שלא פסק וכו' See 'Thinking it over'.

<sup>2</sup> See footnote # 1 (at the end).

<sup>3</sup> See רש"י and משה and רש"י.