

וכמעשה דקטינא דאביי – And like the story of the small land of *Aba'yay*

Overview

יוחנן ruled that even if the father left over a small tract of land (less than the value of the debt), nevertheless he can be continually be מפריש עליהם until the entire debt is paid and like the story of דאביי קטינא.¹

תוספות responds to an anticipated difficulty:

ואף על גב דאמר התם במי שהיה נשוי (כתובות דף צא, ב) –

And even though the גמרא states there in פרק מי שהיה נשוי –

דאי אמרו ליה הני חמשין דמי קטינא סלוקי סלקוהו הכא תקנתא דרבנן היא:

That if the יתומים told the מלוה, 'these fifty זוז which we are giving you, is payment for this קטינא', they removed him from this land and he cannot collect anymore, so why here can he continually collect?² תוספות responds that here it is an enactment of the רבנן so the כהנים can borrow money more easily.

Summary

He can continually be מפריש for the קטינא here because of a תקנתא דרבנן.

Thinking it over

What is תוספות question; indeed if the יתומים would claim that we are paying for the field, he can no longer by מפריש עליהם, however in our גמרא we are discussing where they did not claim it, so it is like דאביי קטינא?!³

¹ There was a person who owed a hundred זוז and he died. He left over a small tract of land worth fifty זוז. The מלוה collected the field, and the heirs gave him fifty זוז and took back the field. The מלוה again collected the field for full payment of his loan. דאביי there said, when you paid him the fifty זוז you did a מצוה (for it is a מצוה לפרוע חוב) however the שעבוד still remained on the field so the מלוה had the right to collect it (again).

² Let the יתומים say to the מלוה; 'the תרומה you took is payment for this small field of ours' so it is no longer משעבוד for the loan. See 'Thinking it over'

³ See תפארת יעקב.