

## איהו דלא טרח אדעתא לצעורה –

**He will not trouble himself for the purpose of tormenting her.**

### OVERVIEW

The גמרא explains the necessity for stating the fourth case in the משנה ( שלח ) (אצלה שליח וכו') as follows: If the משנה would only state the third case ( קידם ) (אצל אשתו) I may have thought that only there is it a valid ביטול since he certainly would not have troubled himself to find the wife before the שליח, just to torment her. Therefore he certainly meant a valid ביטול. From this תוספות infers that the third case was not an accidental meeting between husband and wife, but rather the husband exerted a special effort to meet his wife.

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**משמע דקידם אצל אשתו לא הוי ממילא אלא בטירחא –**

**It seems that the (third) case where 'he preceded towards his wife before the שליח' was not a happenstance; rather it was with an concerted effort** to meet his wife before the שליח arrived with the גט. For the גמרא clearly states 'דלא טרח ממילא' and they did not meet טירחא; וכו'.

תוספות asks a question:

**ותימה דאמאי לא נקט רבנא טפי נזדמן אצל אשתו ממילא או שלוחו –**

**And it is astonishing! Why does not the משנה mention a greater novelty;** that the ביטול is valid even when **he happened to meet his wife or his agent<sup>1</sup> unintentionally** and was either the גט himself or told the שליח to be מבטל. The חידוש will be that even though they met 'accidentally' nevertheless -

**דלא אמרינן לצעורה קא מיכוין –**

**we do not say that he intends only to torment her,** but rather it is a valid ביטול. We do not know this דין from all the four cases in our משנה<sup>2</sup>.

תוספות anticipates a possible solution, but rejects it out of hand.

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<sup>1</sup> We are referring to a person who informed the בעל that he will be seeing the intended divorcee shortly. The בעל then tells him to inform her that the גט that is being sent to her is בטל. The בעל did not seek out a שליח to tell his wife that the גט is בטל. See מהרש"א הארוך. The תוספות הרא"ש omits any reference to a שליח.

<sup>2</sup> The הארוך understands תוספות question to be as follows: The משנה could have stated one of these two cases of נזדמן ממילא and we would not need four cases, but only three. By נזדמן there is no difference whether אצל אשתו or אצל שלוחו.

**דתימה הוא לומר שאז אין מועיל ביטול –**

**For it would be astounding to say** that indeed in those cases where he met his wife or prospective שליח accidentally and was מבטל the גט **that the ביטול should not be valid.** Obviously the ביטול is always valid. The question remains why does the משנה not state the case of ממילא נזדמן?

### **SUMMARY**

questions; why does not the משנה teach us that even in a case where the husband met the אשה (or a prospective שליח) unintentionally and was מבטל the גט, that it is indeed a valid ביטול.

### **THINKING IT OVER**

Why is תוספות certain that even by ממילא נזדמן the ביטול is valid?