

## להולך לאו כזכי דמי –

**That the term ‘deliver it’ is not the same as the term ‘acquire it’**

### OVERVIEW

When a person sends a gift through a שליח and says to the שליח: ‘acquire this gift for the recipient’ – [זכי]; as soon as the שליח receives the gift it belongs to the recipient. The owner can no longer retract this gift. The reason is that since it is beneficial for the recipient to receive the gift, the שליח can be זוכה the מתנה for the recipient even without his knowledge. This is known as ‘זכיין לאדם שלא בפניו’. Our גמרא teaches us that if the owner told the שליח ‘deliver this gift’ [הולך], then it is not כזכי and the recipient does not acquire the gift until it is in his possession. The term הולך is not equivalent to זכי. The owner by saying הולך instead of זכי is indicating that he is retaining the right to retract this gift until it reaches the recipient’s domain. The גמרא says that in this matter שליח מתנה is like שליח הגט. In both instances we do not say הולך. כזכי will be discussing, what the גמרא means that by גט we maintain that הולך לאו כזכי. Seemingly by גט saying הולך or זכי is the same. In both instances she will not be divorced until the גט is in her possession.

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anticipates a difficulty:

**בגט לא שייך לומר הולך לאו כזכי דמי דאפילו זכי נמי לא מהני<sup>1</sup> -**

**Concerning a גט it is not appropriate to say that הולך is not the same as זכי for even when the term זכי is used it will not be effective** that the woman become divorced as soon as the שליח receives the גט. The question is; how does the גמרא say that by גט, הולך is not כזכי? הולך is כזכי by גט. It is ineffective in either case.

responds:

**אלא נקטיה לסימנא בעלמא -**

**However, he mentioned this phrase of 'הולך לאו כזכי' as a general indication,** not to be taken literally (by a גט); rather -

**לומר כי היכי דלא מהניא הולך בגט לא מהני נמי במתנה:**

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<sup>1</sup> The husband cannot be זוכה the גט to the אשה through the שליח (that it should be effective immediately). It is detrimental for the woman to be divorced. The rule is that we cannot effectuate something detrimental to a person, through the process of זכיה, without their consent. A woman may make a שליח לקבלה (where she becomes divorced as soon as the שליח receives the גט), for it is with her consent. The husband cannot make a שליח לקבלה.

**to teach us that just as the term 'הולך' does not function by a גט**, that the woman be divorced as soon as the שליח receives the גט, similarly **it does not function by a gift** that the recipient should acquire it as soon as the שליח receives the שטר מתנה. Rather the owner can retract the gift until it reaches the possession of the recipient.

### **SUMMARY**

When the גמרא says that שליח מתנה כשליח הגט in that הולך לאו כזכי it meant to say that just like by גט the term הולך is inadequate (as is זכי), so too by מתנה the term הולך is inadequate (as opposed to זכי), because by מתנה we say הולך לאו כזכי דמי.

### **THINKING IT OVER**

When the גמרא says 'להולך לאו כזכי דמי' is it referring to גט, to מתנה or to both?