

ואינהו סבור לפני יאוש הוה – יאוש And they thought it was before

OVERVIEW

People redeemed the maid of שמואל and sent her to him saying we agree with רשב"ג but even if you agree with the רבנן (she is still yours) for we redeemed her to remain a maid. The גמרא surmised that the redeemers assumed that the redemption took place before יאוש (therefore they could have said what they said).¹ תוספות explores the possibility that they assumed it was after יאוש.

תוספות asks:

תימה דלמא ידעי שפיר דלאחר יאוש הוה וסברי כרבא דלעיל² –

This is astounding! Perhaps they indeed knew that it was after יאוש, but they held like the view of רבא mentioned previously (and therefore she was still enslaved to שמואל [according to רשב"ג]³) –

תוספות offers a solution:

ולמאי דפרישנא⁴ דלרבא מודה רבן שמעון בן גמליאל לרבנן –

However, according to what I explained previously that according to רבא, רבא agrees with the רבנן רשב"ג –

דלשם עבד ישתעבד לרבו שני ניחא –

That if he was redeemed to remain an עבד, he should be enslaved שני, then all is understood -

דאם כן היתה שלהם ולא מסתבר שהיו באים לתתה לו במתנה⁵:

For if indeed this is so, the redeemed maid belonged to them for they are שני רבו (and not to שמואל [who was ראשון]), and it does not seem likely that they were intending to give her to שמואל as a gift.

¹ According to אב"י, before יאוש the רבנן maintain that if עבד לשם he continues to serve ראשון and רשב"ג maintains that he always serves ראשון. This explains their statement. However, if it was לאחר יאוש why should she continue to serve שמואל (according to רשב"ג)?

² דף לז, ב. See 'Thinking it over'.

³ It will be necessary to say (in this question of תוספות) that even according to the רבנן (לפי רבא) who rule that לאחר עבד לשם רבו פודה the רבו, יאוש ישתעבד לרבו שני, that is only if the redeemer wanted the עבד for himself; however if he was פודה the רבו, then it belongs to ראשון. They said to שמואל we agree with רשב"ג so when we were פודה her it was לרבו ראשון (as רשב"ג maintains [according to the initial פשט in תוספות previously]), so even if you שמואל agree with the רבנן, nevertheless since we were לרבו ראשון even the רבנן agree that ישתעבד לרבו ראשון (see קרני ראם). See מהרש"א # 168. אמ"ה and הארוך.

⁴ [TIE footnote # 6]. לעיל לז, ב, תוד"ה בין.

⁵ If their intent was to present him with a gift they should have said so, but instead they said we agree with רשב"ג; indicating that they maintained she belonged to him legally.

SUMMARY

They could not have assumed that it was לאחר יאוש (even according to רבא); for everyone agrees that לשם עבד the rule is שני לרבו שני.

THINKING IT OVER

יאוש⁶ asks how can we be certain that they assumed it was before תוספות. Seemingly we can answer, for if they assumed it was לאחר יאוש, then she is freed, so how can they redeem her לשם עבדות?!⁷

⁶ See footnote # 2.

⁷ See אג"ה # 169.