

## וכי מי כתב גט שחרור לאלו –

**But did then someone write a writ of emancipation for these**

### OVERVIEW

states in the name of ר' יוחנן that if someone emancipates his slave, the slave requires a גט שחרור in order to marry a בת חורין ר' אבא challenged this ruling from a ברייתא which states that if a גר dies his (adult) slaves become בני חורין. The question on עולא is that they did not receive a גט שחרור, so how can they be בני חורין?

אלמא לא בעי גט להתיירו בבת חורין –

**It is evident** from this ברייתא that a גט שחרור **is not required** in order to permit the עולא to marry a בת חורין, contrary to the ruling of עבד –

והיינו כשמואל דאמר<sup>1</sup> מי שאין לו רשות רבו עליו אינו קרוי עבד<sup>2</sup> –

**And** the explanation why indeed they do not require a גט שחרור is because of the ruling of שמואל who maintains that **whoever is not under the jurisdiction of his master is not considered an עבד** –

וטעמא דאבא שאול בקטנים דחשיב רשות רבן עליהן<sup>3</sup> כיון שאין להן יד בעצמן:

**And the reasoning of שאול** (that they remain עבדים) **regarding אב** (that they remain עבדים) even though we are following the view of שמואל is because **he considers that these are still under the jurisdiction of their master since that have no יד to acquire themselves.**

### SUMMARY

According to שמואל it is necessary to maintain according to שאול that regarding מיתת הגר even after רשות רבן עליהן it is considered as if עבדים קטנים

### THINKING IT OVER

Could we interpret the dispute between the ת"ק and שאול is based on the dispute whether עבד צריך גט שחרור or not?<sup>4</sup>

<sup>1</sup> See לה, א.

<sup>2</sup> Therefore even the עבדים קטנים (according to the רבנן) have no master as soon as the גר died, they cannot be considered anymore עבד איש therefore they are freed and become בני חורין.

<sup>3</sup> שמואל maintains that when the גר dies, regarding the גדולים since they have a יד they acquire themselves and can no longer be considered עבד איש, however the עבדים קטנים since they have no יד לזכות בעצמן, they are potential עבדים to whoever acquires them therefore they are considered עבד איש for it is as if עליהן רשות רבן since anyone can acquire them for they cannot be בעצמן. Alternately רשות רבן עליהן can mean that since they cannot acquire themselves they are still under the jurisdiction of their master. See אמ"ה # 61-2.

<sup>4</sup> See תפא"י.