

**It may cause a confusion - אתי לאיחלופי בקיום שטרות דעלמא -**  
regarding the authentication of documents in general.

### OVERVIEW

According to רבא, the reason that the שליה says בפני נכתב is only to differentiate it from קיום שטרות.<sup>1</sup> There is (seemingly) no significance or purpose in this testimony itself. Our תוספות explains when בפני נכתב will prevent the אתי לאיחלופי.

asks: תוספות

**ואם תאמר כיון דאין צריך לומר בפני נכתב אלא משום איחלופי -**

**בפני** And if you will say; since it is not really necessary for the שליה to say **בפני** קיום חגט with קיום שטרות **confuse** we should not **confuse** **נכתב**; it is said **only because** we should not **confuse** **נכתב**. According to רבא we are not concerned about לשמה. Our concern is only to ascertain that the husband actually sent the גט. To verify this, all that is required is that we know that we have proper witnesses. This is accomplished by the שליה saying נחתם. The question is –

**אמאי פסיל בריש פרק ב' (לקמן דף טו,א) -**

**Why** does the משנה **in the beginning of the second פרק** interpret the משנה which states that if the שליה said חציו נכתב בפני it is **פסול**, that the משנה is (only) referring to the case where the שליה said –

**בפני נכתב חציו אחרון טפי מחציו ראשון<sup>2</sup> -**

**The last half of the גט was written in my presence;** only then is the גט **פסול**. The question is: why is the גט in this case **more than** if he said **the first half** of the גט only, was written in my presence; in which case the גט would be כשר.<sup>3</sup> If we were to assume (like רבה) that בפני נכתב is said for the purpose of verifying that the גט was written לשמה, it is understood that if the first half was written לשמה then there is no problem with the גט, as opposed to if only the second half was written לשמה. According to רבא, however, we are not concerned whether the גט was written לשמה. The only purpose of saying בפני נכתב is to differentiate הגט from קיום שטרות. What difference should there be if he said בפ"נ חציו ראשון or בפ"נ חציו אחרון; in either case seemingly it will be differentiated from קיום שטרות, where no בפני נכתב is said at all.

<sup>1</sup> One should not make the mistake that since בפני נחתם is valid even with only one עד, therefore all קיום עד can also be accomplished with even only one עד.

<sup>2</sup> See 'Thinking it over' # 1.

<sup>3</sup> The גמרא there quotes ר"א who says 'אפילו לא כתב בו אלא שיטה אחת לשמה שוב אינו צריך'. This is interpreted (by רש"י [and here in תוספות]) to mean the first line of the גט where the names of the man and the woman are written.

answers: תוספות

**ויש לומר דבחציו ראשון יש בו שם האיש והאשה והזמן שהוא עיקר הגט -**

**And one can say; that in the first half of the גט there is therein the names of the husband and the wife, and the date of the divorce which is the essence of the גט.** When the שליה testifies that these were written in his presence, since they are an essential part of the גט, therefore –

**מינכר מילתא ולא אתי לאיחלופי:**

**It is apparent** that a pertinent testimony<sup>4</sup> is being presented before the בי"ד **and** therefore the הגט **will not be confused** with קיום שטרות. Everyone notices that this is not a regular קיום, for additional testimony is being offered here, which is not offered by שטרות. If, however, the שליה says חציו אחרון בפני נכתב, since that part of the גט is merely a standard form;<sup>5</sup> nothing of substance is written there that will distinguish it from other גיטין, therefore no one will take this statement of חציו אחרון as being serious testimony. People will assume that the שליה is just relating what happened, but there is no real testimony in this statement. The only testimony that will be considered relevant is the בפני נחתם. Thus it will appear as a regular קיום שטרות. Therefore we are concerned that אתי לאיחלופי בקיום שטרות דעלמא and the גט is פסול.

## SUMMARY

Saying בפני נכתב on the (first) part of the גט which contains pertinent information will be taken as a relevant testimony. This will prevent the אתי לאיחלופי. Saying בפני נכתב, only on the remainder of the גט, will not be viewed as relevant testimony. It will not therefore prevent the אתי לאיחלופי.

## THINKING IT OVER

1. Why could not תוספות ask his question on the משנה directly; why is בפני גמרא<sup>6</sup> that differentiates between בפ"נ חציו אחרון and בפ"נ חציו ראשון?
2. Explain the difference of our understanding how בפני נכתב will prevent the אתי לאיחלופי, according to the קשיא, as opposed to the תירוץ, of תוספות.

<sup>4</sup> See שו"ת עיקר העדות, ועי' בנח"מ who states: תוס' הרא"ש ש.

<sup>5</sup> In fact it may be written by the סופר שלא לשמה, without the instruction of the בעל.

<sup>6</sup> See footnote # 2.