

אטו כי אמרי ידענו מי לא מהימני -

If they would say 'we know', would they not be believed!?

OVERVIEW

maintains that according to רבא there is no need to say בפני נכתב. There is no חשש of לאיחלופי אתי since by קיום הגט the testimony of בפני is required, and by קיום שטרות the testimony of ידעתי is sufficient. רבא replies that by גט, the usage of ידענו is also acceptable. Therefore there is the חשש of לאיחלופי אתי. There is a dispute between רש"י and תוספות as to what the גמרא means when it says that ידענו is valid by קיום הגט.

פירש בקונטרס הואיל ולדידיה טעמא משום קיומא מה לי בפני מה לי יודע אני -
explains¹ that since according to רבא the reason for saying בפני is to be נחתם בפני, or if he says **I recognize** the signatures. If בפני is sufficient, then יודע אני is also sufficient for קיום הגט.

משמע שרוצה לומר דשליח מהימן כי אמר יודע אני -
It seems² that רש"י wants to say, that according to רבא the שליח will be believed if he merely states, '**I recognize**' the signatures. He does not need to say בפני נחתם to validate the גט; even 'יודע אני' is sufficient³.

answers; presents a possible difficulty with this interpretation:

והא דנקט כי אמרי ידענו לשון רבים ולא אמר כי אמר ידעתי -
And how is it that the גמרא used the term: '**if they said we know**', in the plural form⁴ and the גמרא did not use the singular: '**if he said I know**'. This would have been the more correct version since according to רש"י, even one שליח is believed to say ידעתי. Why are we using the plural?

answers;

משום דאשלוחין בעלמא קאי -
Because the גמרא is referring to all the שלוחים in general that bring גיטין from

¹ ד"ה אטו הכא.

² In our text, רש"י states: 'אי אמר יודע אני'. Also, רש"י quotes the גמרא as saying: "אטו הכא כי אמר יודע אני וכו'".

³ It is understood that ידעתי will be valid for קיום הגט (according to the מסקנא), only if it is accompanied by אתי לאיחלופי וכו'; otherwise it will be בפני נכתב.

⁴ See previous footnote #2, that רש"י's text in the גמרא reads 'יודע אני'. However, תוספות may be adding that אמרי ידענו can be understood even according to our reading of the text;

הים. The גמרא should be understood as follows: All the שלוחים will be believed if they say ידענו. It really means that each שליה individually will be believed if he says ידעתי.

פירוש רש"י presents another possible challenge to

ולעיל לא בעי למימר ידעתי איכא בינייהו -

And previously when the גמרא was offering various נפקא מינה לדינא between רבא and רבה, the גמרא there **did not want to say that there is a difference** between רבא and רבה if the שליה said ידעתי and not בפ"נ. According to רבה it would not suffice, and according to רבא it will validate the גט. Why indeed did the גמרא not offer this difference if we are to follow רש"י's interpretation?⁵

answers: תוספות

דלא בעי למינקט אלא הנהו דלמר צריך ולמר לא צריך -

Because the גמרא **did not want to state** all possible differences between רבא and רבה; rather the גמרא was interested in stating **only⁶ these** differences, **where according to one master, it would be necessary** to say בפ"נ **and according to the other master it is not necessary** to say anything. Therefore the גמרא could not have said: 'ידעתי איכא בינייהו', for according to both רבא and רבה something must be said; either בפ"נ or ידעתי.

תוספות will now refute רש"י's interpretation that a single שליה will be believed (according to רבא) if he says ידעתי and not בפ"נ.

אבל תימה הוא דבכל דוכתא דנקט לרבא בפני נחתם לאו דוקא -

However, this is incredulous that everywhere that בפ"נ is mentioned, according to רבא it does not necessarily mean that the שליה must say בפ"נ, for he may say ידעתי instead. תוספות finds it too far fetched to say that when the גמרא uses the term בפני it is inexact, and ידעתי will suffice.

תוספות asks an additional question on פירוש רש"י:

ועוד אי בחד נמי מהני ידעתי היכי קאמר רבא בריש פרק ב' (לקמן דף טו,א) -

And furthermore if as רש"י maintains, **that by one שליה also, ידעתי is sufficient** for הגט, **how can רבא say in the beginning of the second פרק, that⁷ -**

⁵ See 'Thinking it over' # 3.

⁶ See איכא בינייהו where תוספות asks that according to רש"י, the גמרא should have said: ידעתי איכא בינייהו. This seems to contradict what תוספות is saying here, רצ"ע. אם צריך לישאל.

⁷ רבא makes his comment concerning the משנה, which states that if the שליה said כולו, however he saw the signing of only one of the עדים and not the second, it is פסול. In the event that the שליה and another person recognize the other חתימה, nevertheless רבא maintains that it is still פסול.

אפילו הוא ואחר מעידין על חתימת עד שני פסול -

Even if the שליח and another person testify to authenticate the signature of the second witness, nevertheless the גט is פסול -

– דין a רבא asks, how can תוספות

דאי לא הוה אלא האי שליח דמכיר שתי חתימות הוה כשר -

For if there would only be this שליח who is testifying that he recognizes⁸ both signatures, then it would have been כשר; this is the opinion of רש"י -

והשתא משום דבא אחד מהשוק לסייעו בחתימת שני יפסול -

But now since someone came from the marketplace to help him authenticate the second signature it should be פסול?! Let us imagine that the second person never came; according to רש"י it would be כשר. Why should this second person's supporting testimony diminish the כשרות of the גט?!

תוספות will offer רש"י's own apparent answer to this question and refute it:

אף על גב דבקונטרס פירש התם דהיינו הא דפריך ליה רב אשי -

Even though רש"י (because of the difficulty presented here by תוספות) explains there⁹ that this (question that תוספות is asking) is indeed what רב רבא refutes אשי, saying –

מי איכא מידי דאילו מסיק איהו לכולא דיבורא כשר וכולי -

Can there be such a case that if he himself would have concluded the entire statement (as in this case, if the שליח would have concluded by himself; 'I recognize the other signature') it would be כשר etc., and just because someone else assists him in confirming the second signature it should be פסול?! If we are to assume that this is indeed רבא's question on רבא, then there is no question on רש"י. However, תוספות does not accept רש"י's interpretation, that this question that תוספות is asking on רבא is identical to רבא's question on רבא, as תוספות continues –

מכל מקום אין סברא כלל שהיה רבא טועה בכך -

Notwithstanding what רש"י states that רבא is actually asking תוספות question on רבא, however it is completely illogical that רבא should have made such an error, that if the שליח and another עד testify that they recognize the second signature it will be פסול; since רבא is of the opinion that (even) if there is no other עד, the testimony of the שליח will suffice if he says ידעתי.¹⁰ Therefore we must say that ידעתי is an insufficient testimony for a single שליח, and he is not believed unless he says

⁸ Obviously, saying בפ"נ concerning one עד is no worse than ידעתי.

⁹ See ריש דף טו,ב ד"ה הוא ואחר.

¹⁰ If רבא would be of the opinion that one שליח is נאמן if he says ידעתי, he never would have made that statement, that 'אפילו הוא ואחר מעידין על חתימת יד שני פסול'. This would be illogical.

¹¹ (according to both רבא and רבה) בפני

ידענו and ידעתי offers his position regarding תוספות

ונראה ידיעתי לא מהני אפילו לרבא -

And it is the opinion of תוספות that ידיעתי will not be a sufficient testimony even according to רבא who says that the reason for saying נחתם בפני הגט is for קיום. Nevertheless גט ידיעתי will not validate the -

עד שיאמר בפני נכתב ובפני נחתם משום דדייק טפי כדפירשנו -

Unless he says בפ"נ ובפ"נ, because when he has to say בפני then he is **exceedingly meticulous** that the גט be executed in the proper manner, **as we previously¹² explained;** and only then do we believe him.

¹³ גמרא explains the תוספות

והכי מפרש רבינו משולם אטו כי אמרי ידענו -

And this is how משולם ר' explains the גמרא which says, **“Is it not so that if they said ‘we know’”;** the word ‘they’ is referring not to a שליח, but rather to –

שנים מעלמא שיקיימו גט זה מי לא מהימני -

Two people at large (not the שלוחים) that would be מקיים this גט; would they not be believed?! Certainly, if the שליח did not say בפ"נ at all and two people came and were מקיים the גט, then it would be a valid גט according to רבא¹⁴ -

והואיל ומהני בזה קיום דמהני בשאר שטרות אתי לאיחלופי¹⁵:

¹¹ It will now be necessary to restate רבא's statement and רב אשי's subsequent refutation in שני פרק quoted above. תוספות view is that the שליח alone is not believed to say ידיעתי. But רבא adds (to the משנה there) and maintains that even if the שליח and another person are testifying that they recognize the second signature it is still not a valid גט (for the reason given in the גמרא there). רב אשי disagrees with רבא, maintaining that since if the שליח would have said כולו נחתם בפני he would be believed, how can you maintain that the שליח and another person who say ידענו are not sufficient to validate the גט. See תוספות on ד"ה מי תוספות.

¹² See previous תוספות ד"ה הכא.

¹³ Now that תוספות concluded that a שליח is not believed if he says ידיעתי, there seems to be a difficulty in understanding the גמרא. There is an argument between רבא and רבה if מעלמא דעלמא; where אתי לאיחלופי בקיום שטרות דעלמא; where רבא adds (to the משנה there) and maintains that even if the שליח and another person are testifying that they recognize the second signature it is still not a valid גט (for the reason given in the גמרא there). רב אשי disagrees with רבא, maintaining that since if the שליח would have said כולו נחתם בפני he would be believed, how can you maintain that the שליח and another person who say ידענו are not sufficient to validate the גט. See תוספות on ד"ה מי תוספות.

¹⁴ רבא is of the opinion that בפ"נ needs to be said to assure קיום. Here there is a valid קיום with these two עדים. According to רבה, however, even though we have a proper הגט, the גט is still פסול, because of the חשש of לשמה.

¹⁵ Once people see that a גט is valid without saying בפ"נ, as long as there is קיום, they will deduce that the purpose of בפ"נ is קיום. Therefore they will conclude that קיום שטרות can also be accomplished with only one עד (בפני נחתם), just as one שליח is believed by הגט (by saying נחתם).

So since the **קיום** which is effective by other **שטרות** is effective by **גט**, therefore there is the concern of **אתי לאיחלופי**.

SUMMARY

There is a **מחלוקת** between **רש"י** and **תוספות** if, according to **רבא**, a **שליח הגט** will be believed if he says **ידעתי** instead of **בפני**.

רש"י is of the opinion that (the reason why it is **אתי לאיחלופי** is because) a **שליח** would be believed if he said **ידעתי** instead of **נחתם**. The **גמרא** did not mention this as one of the differences between **רבה** and **רבא**, because the **גמרא** is considering only those differences whether **בפ"נ** needs to be said or not.

תוספות disagrees for it would mean that it is not necessary to say **בפ"נ**; whereas in the **גמרא**, we find the requirement to say only **בפני**, without any allusion that **ידעתי** is sufficient. This proves that a **שליח** saying **ידעתי** will not validate the **גט**, even according to **רבא**. The reason for this is that when saying **ידעתי** the **שליח** will not be as meticulous as when he testifies **בפני**. The reason why **אתי לאיחלופי** is that if two people state **ידענו** it will be a valid **גט**. Thus people will equate **נחתם בפני** with **קיום הגט**. Subsequently they will conclude that just as by the **קיום הגט** one **שליח** is **נאמן**, so too by **שטרות** one **קיום** will be **נאמן עד**.

THINKING IT OVER

1. What are the relative merits and difficulties of **רש"י** and **תוספות** respectively?
2. Why is **קיום הגט** different from **שטרות**, that by **קיום הגט** one **שליח** is sufficient and **שטרות** requires two **עדים**?
3. **תוספות** asks: according to **רש"י** that **ידעתי** is valid (according to **רבא**), why did the **גמרא** not say: **'ידעתי איכא בינייהו'**?¹⁶ Why cannot we ask a similar question according to **תוספות**; why does the **גמרא** not say **ידענו איכא בינייהו'**?¹⁷

¹⁶ See footnote # 5.

¹⁷ **מהר"ם שי"ף**.