

Or is it not precise

או לאו דוקא –

OVERVIEW

ruled that we penalize one who sold his slave to a נכרי that he must redeem him (buy him back) and pay up to a hundred times his sale price. The גמרא asked did ריב"ל mean precisely that he is obligated to redeem him for up to a hundred times his sale price, or perhaps he was not precise. There is a dispute between רש"י and תוספות as to the meaning of דוקא.

פירש בקונטרס¹ דלא קנסין ליה כולי האי וגוזמא קאמר -

explained that דוקא means that we do not penalize him that much to actually pay a hundred times his value, but rather ריב"ל exaggerated –

פרש"י asks on תוספות:

וקשה דאם כן איזה שיעור יהיב -

And there is a difficulty with this פרש"י, for if indeed it is so that he is not required to redeem him for a hundred times, so what maximum amount is given that he is required to redeem him -

דאכתי לא ידע ההיא² דקונסין אותו עד עשרה דנימא ביה ההוא שיעורא -

For as yet the גמרא did not know that other ruling that we penalize him up to ten times his value, so we should use that limit –

offers his explanation:

ונראה לפרש או לאו דוקא אלא אפילו ביותר ממאה קנסין ליה עד דפריק³ -

And it appears to תוספות to explain 'או לאו דוקא' to mean not precisely a hundred, but rather we penalize him even for more than a hundred times his worth until he redeems the slave, no matter at what price. This explanation -

כענין שפירש בקונטרס⁴ באיכא דאמרי⁵ -

Is similar to how רש"י explained 'או לאו דוקא' in the איכא דאמרי version of ריב"ל -

¹ בד"ה דוקא.

² The גמרא immediately cites ריש לקיש that one who sells a בהמה גסה to a נכרי we penalize him to buy it back up to ten times its value. Had we known this ruling when we are asking this query of דוקא או לאו דוקא we could have said (according to פרש"י) That if מאה is דוקא because it is too much, the limit will be ten like ר"ל; however when the question was asked we did not know the ruling of ר"ל (that ruling was used to resolve the query), so what amount could we substitute for מאה?

³ This removes the question which תוס' asked on רש"י, 'so what is the שיעור'; according to תוספות there is no question, for there is no שיעור, the seller must redeem him at whatever price the נכרי asks.

⁴ בד"ה או.

⁵ According to the א"ד the amount was ten times, not a hundred times, and the גמרא there also asked דוקא או לאו דוקא.

ומייתי מבהמה⁶ דקונסין אותו עד עשרה בדמיה אלמא לאו דוקא⁷ -

And the גמרא cited from the ברייתא of בהמה where we penalize him up to ten times its value, indicating that ten times is לאו דוקא -

דהוא הדין טפי כדקאמר הכא עד מאה גבי עבדים והוא הדין דהכא לאו דוקא:

For the law requires that he redeem the בהמה for more than ten times, as ריב"ל stated here regarding slaves that it is up to a hundred times, so just as by a ten times is לאו דוקא, so the same rule applies here by an עבד that a hundred times is לאו דוקא.

SUMMARY

According to רש"י, the meaning of לאו דוקא is that it can be less than one hundred times, and according to תוספות it means even more than one hundred times.

THINKING IT OVER

דוקא או לאו cites the resolution the גמרא attempted to make on the query of דוקא או לאו. Why did תוספות find it necessary to do so? Is there a difficulty with the answer according to תוספות, but not according to פרש"י?⁹

⁶ See 'Thinking it over'.

⁷ The גמרא at this point (when it brings proof from בהמה to עבד) sees no reason to differentiate between בהמה and עבד; it assumes that both of them should be penalized equally, therefore since we see that the עשרה בדמיו by a בהמה is לאו דוקא (for by an עבד it is מאה בדמיו [and there is no reason to distinguish between them]), and one is obligated to redeem the בהמה, even for more than עשרה בדמיו, therefore we may conclude that by the עבד as well מאה בדמיו is also לאו דוקא and he is liable to redeem the עבד, for whatever price the נכרי demands.

⁸ See footnote # 6.

⁹ See נחלת משה and מהרש"א.