

**She died, yes; she did not die, no**

**מתה אין לא מתה לא -**

### **Overview**

Previously יוחנן brought a ברייתא (based on the פסוק of ולביתך), which indicated that כקנין הגוף is קנין פירות.<sup>1</sup> Subsequently ר"ל asked a question on ר"י from the ברייתא of לאו כקנין הגוף is קנין פירות which indicates that תוספות explains the nature of this latter question.

asks: תוספות

**ואם תאמר מאי קושיא דרבי יוחנן דאמר כתנא דלבייתך<sup>2</sup> דמה נפשך פליג<sup>3</sup> -**

**And if you will say; what is the question of ר"ל, since ר"י can follow the תנא of the ברייתא of לביתך, for in any event the two ברייתות of לביתך and מתה argue with each other?!**

answers: תוספות

**ויש לומר<sup>4</sup> דאיכא לאוקמה במתה כי הך -**

**And one can say that we can establish the ברייתא of לביתך (which seemingly indicates כקנין הגוף דמי in a case of מתה like this ברייתא of מתה, so the ברייתות do not necessarily conflict, which makes ר"ל question understandable.**

has an additional question: תוספות

**ואם תאמר ולישני דהך דמתה בשלא זכתה האשה פירות נכסיה לבעל -**

**And if you will say; so let ר"י answer that this ברייתא of מתה is in a case where the woman did not transfer the פירות of her assets to her husband in which case he does not even have פירות, therefore he cannot bring them as ביכורים -**

answers: תוספות

**ויש לומר דברייתא קתני אף בתר דתקון רבנן פירות לבעל -**

**And one can say; that the ברייתא of מתה was taught even after the רבנן enacted that the פירות of the wife belong to the husband so he has a קנין פירות and nevertheless he can only be מביא וקורא if she died, but not when she is alive -**

<sup>1</sup> See previous (in the 'Overview'). תוספות ד"ה ולביתך

<sup>2</sup> כקנין הגוף is קנין פירות that ברייתא inferred from that ר"י

<sup>3</sup> See 'Overview'; the two ברייתות seemingly conflict with each other.

<sup>4</sup> ברייתא question was that since the two ברייתות obviously conflict, how can we ask a question on ר"י from one ברייתא, since he maintains like the other ברייתא. The answer is that they do not necessarily conflict, therefore ר"ל has a valid question if we presume that the first ברייתא also maintains דמי כקנין הגוף

offers another answer to his question why we cannot establish the *ברייטא* where she was not *פירות* to him her *מזכה*:

**ועוד דהוה ליה כקונה פירות בשוק ואחר כך קנה שדה דאינו קורא<sup>5</sup> -**

**And additionally** if she was not *מזכה* her *פירות* to him, he merely took them and then she died, **it is like one who buys fruit in the market and then he bought the field** where these fruits grew, where the rule is **that he cannot be קורא -**

**כדאמרינן במסכת בכורים<sup>6</sup> (פ"א) -**

**As the גמרא [תלמוד ירושלמי] states in מסכת בכורים -**

responds to an anticipated difficulty:<sup>7</sup>

**אבל לריש לקיש שהיו לו פירות תחילה אתי שפיר -**

**However according to ר"ל that he had the פירות initially it is properly understood -**

**דבמתה מביא וקורא כיון דמעיקרא אגיד בה<sup>8</sup> לפירות:**

**That when she died he is מביא וקורא since initially he was attached to the field through the פירות.**

### **Summary**

The two *ברייטות* do not necessarily conflict. The *ברייטא* of מתה is after the רבנן gave him her *פירות*. If the woman was not *מזכה* her *פירות*, the husband cannot be קורא even after she dies. Even according to ר"ל, if she was *מזכה* the *פירות* then he may be מביא after she dies. It is not like שדה ואח"כ קונה פירות ואח"כ קונה שדה. Since he had a vested interest.

### **Thinking it over**

In the first question תוספות writes, 'ומאי קושיא' (but not 'ולישני'); however in the second question תוספות writes 'ולישני' (but not 'ומאי קושיא'); why the different expressions?!

<sup>5</sup> Therefore if the wife was not *מזכה* the *פירות* to her husband, he cannot be קורא even after she died, because it is just like the case of קנה פירות בשוק וכו'.

<sup>6</sup> The בירושלמי amends this to read הגהות מהר"ב רנשבורג.

<sup>7</sup> just finished saying that if she was not *מזכה* the *פירות* to the בעל, even if she died he is not קורא. Why therefore according to ר"ל is he מביא וקורא even after she died and even if she gave him the *פירות*. According to *פירות* קנין ר"ל is not *קנין הגוף דמי*, so the fact the he owns the *פירות* does not permit him to be מביא וקורא his wife's *פירות*, so even though she died and he inherits the field it is still the same problem at it is according to ר"י, namely it is like he bought the *פירות* and later bought the field!

<sup>8</sup> According to ר"ל if she granted him the *פירות* it is not similar to the case of קנה פירות ואח"כ קנה שדה, for in that case when he bought the *פירות* he had no connection at all to the field, however here when she granted him the *פירות* of the field so even though it is only *קנין פירות*, but she granted him the *פירות* of her field, so he has some connection to the field (a *קנין פירות*), therefore when she dies and he inherits the field it (sort of) completes his *קנין הגוף* in the field.