

**אי בעית אימא טעמא מאי כולי –**

**If you wish I can say; what is the reason etc.**

**OVERVIEW**

The גמרא concluded that according to רבה, the ברייתא, which states that if the שליח did not say בפ"נ the גט will be כשר if נתקיים בחותמיו, is applicable if the following two conditions are met: a) לאחר שלמדו, and b) כשניסת. The ברייתא explains that the reason the גט is כשר is because the תקנה of saying בפ"נ was instituted להקל עליה ולא להחמיר. This explanation requires some clarification according to רבה.<sup>1</sup> The explanation offered is: that one may think that even though she is remarried, nevertheless since the תקנה of saying בפ"נ was not followed, we should maintain that תצא. The ברייתא teaches us that since the תקנה was instituted to make it easier for her to remarry, by requiring only one שליח to say בפ"נ instead of producing two עדים (that the גט was written לשמה), therefore we are lenient and let her stay remarried. The גמרא continues saying: טעמא מאי תקינו וכו'. There is a dispute between רש"י and רש"י, טעמא מאי וכו', thus making it an additional explanation/answer, or we are not גורס איב"א, and טעמא מאי is the conclusion of the original answer.

רש"י of גירסא first presents the תוספות

**רש"י לא גריס איבעית אימא דסיומא דמילתא הוא -**

**'טעמא does not include in his text the phrase איבעית אימא; because רש"י is the conclusion of the original explanation.**

רש"י disagrees with תוספות

**ולרבינו יצחק נראה דשפיר גריס ליה ומוקי לה השתא קודם שלמדו -**

**The ר"י is of the opinion that it is proper to insert 'איבעית אימא' in the text, and the גמרא is establishing now (in this second explanation) that this ברייתא is discussing a situation of קודם שלמדו. The גמרא is reversing the original**

<sup>1</sup> Seemingly according to רבה the reason the גט is כשר is on account that (it is לאחר שלמדו and) the woman already remarried. It has nothing to do with a קולא in בפ"נ. (However according to רבא who maintains that the תקנה of בפ"נ is because of קיום, it is understood that בפ"נ was instituted עליה and therefore קיום is certainly sufficient even if ניסת.)

<sup>2</sup> See אמ"ה # 10 that if we are discussing לאחר שלמדו and ניסת, how can the גמרא state השתא בעל לא קא מערער. ניסת and לאחר שלמדו he will not be believed since it is מערער he was; even if he was מערער he will not be believed since it is מערער he was. Therefore it is necessary to establish the ברייתא in the era of קודם שלמדו.

interpretation that the ברייתא is discussing לאחר שלמדו. Rather we may say that the ברייתא is discussing קודם שלמדו and nevertheless –

**דכיון דניסת לא תצא כיון דלזיוף ליכא למיחש דנתקיים בחותמיו -**

**For since she is already remarried she is not required to leave her new husband since there can be no concern that the גט is מזויף for it is authenticated through its signatures -**

**וליכא אלא לעז בעלמא דשלא לשמה אפילו אתי בעל ומערער -**

**And there is no concern (that the גט was actually written לשמה), except for general gossip that the גט was written לשמה. We are not concerned that the גט was written לשמה even if the husband will come to contest the גט, and claim that it was written לשמה. We do not take the husband's ערעור seriously, even קודם שלמדו, since רוב בקיין הן וסתם ספרא דדיינא מיגמר גמירי**

**כדפרישית לעיל (נדף ה) ע"א ד"ה א"ה בעל):**

**As I previously explained.<sup>3</sup>** Therefore once the woman is remarried, and the גט was מקויים, she may remain remarried. The only reason בפ"נ is required is to prevent a future לעז. A לעז may make it difficult for the woman to remarry, etc. Now however that she is remarried; at present there is no לעז, the בעל is not being מערער, it is best to leave things as they are.<sup>4</sup>

## **SUMMARY**

There is a dispute between רש"י and תוספות whether we are גורס 'איבעית אימא'. גורס 'איבע"א' maintains that we are not גורס 'איבע"א'. The גמרא offers only one explanation and the phrase beginning with טעמא מאי is the conclusion of the original answer.

<sup>3</sup> See ד"ה חד. It would seem that this dispute between רש"י and תוספות here, whether we are גורס 'איבעית אימא' or not, depends on their previous מחלוקת דף ב,ב concerning the תקנה of בפ"נ. The גמרא there stated that ורבנן הוא דאצרוך to say בפ"נ. According to רש"י the reason why ורבנן הוא דאצרוך is because בי"ד is חושש that perhaps this גט was not written לשמה; the husband may have found a גט that was שמו כשמו וכו'. However, תוספות maintains that ורבנן הוא דאצרוך is because בי"ד is concerned that the husband will be מערער falsely that it was written לשמה. Therefore תוספות can maintain that there is an 'איבעית אימא', which is discussing שלמדו. For even קודם שלמדו, the whole תקנה of בפ"נ was because דילמא אתי בעל לשמה. However, רש"י cannot say that even originally the תקנה was בעל אתי, for as previously stated, מערער. However, רש"י is concerned that it may be לשמה. It is only לאחר שלמדו and כשניסת that we can say טעמא מאי. Similarly it is also possible to say that these two answers in the גמרא (according to תוספות) will depend on the two שיטות of דף ב,ב. If we maintain that the ערעור הבעל (קודם שלמדו) will actually make the גט פסול then the ברייתא will be discussing only לאחר שלמדו (like רש"י). However if we maintain that even when the בעל מערער the גט is פסול, then we can interpret the ברייתא even קודם שלמדו.

<sup>4</sup> According to this explanation (of תוספות), the phrase 'הוא לא הצריכו לומר בפ"נ להחמיר עליה וכו' is readily understood. The purpose of saying בפ"נ is to prevent a false ערעור. When there is no ערעור, nor any לעז, and the woman is remarried, there is no reason to change her status.

is of the opinion that there is a second answer. The גמרא now rejects the previous answer that we are discussing שלמדו. In the איבע"א we maintain that the ברייתא is discussing שלמדו קודם and nevertheless if לא ניסת לא. The only concern that causes us to say בפ"נ on account of לשמה is the חשש that perhaps the בעל will be מערער that it was written לשמה. Therefore since she is already married and the בעל was not מערער we will not act as if there was an ערעור.

### **THINKING IT OVER**

1. Is there a difference between the חששות of לשמה אין עדים and אין בקיאים לשמה, in a case where the בעל is מערער either that it is מזויף or שלא לקיימו respectively?<sup>5</sup>
2. It seems that according to רש"י the answer of 'הקל עליה' may not be a sufficient explanation without the conclusion of 'טעמא מאי וכו'.' However according to תוס' the idea of 'טעמא מאי וכו'' is not necessary for the completion of the first answer; it is an answer on its own. How can this be explained?
3. According to תוספות what are the relative advantages etc. of the two explanations the גמרא offers?
4. What are the relative advantages, etc. of רש"י's and תוספות explanations?

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<sup>5</sup> See (תוספות ה,א ד"ה כשניסת in previous # 1&2 'Thinking it over' (See גה"מ, and סוכ"ד אות כח, # 13 אמ"ה