

יטלנו הימנה ויחזור ויתננו לה ויאמר כולי –

He should take it from her and redeliver it to her and say etc.

OVERVIEW

will be discussing at what point is a שליח required to say בפ"נ. Is it necessary that he says it at the moment of the delivery of the גט? Can it also take place either before or after the delivery?

מכאן משמע דצריך לומר בשעת נתינה¹ בפני נכתב מדקאמר יטלנו הימנו -

It appears from this statement of ויאמר וכו' יטלנו וכו' that it is required that should be said at the time of delivering the גט² since the גמרא states 'he should take it from her, redeliver it to her, and say בפ"נ'. If there would be no requirement to say בפ"נ at the point of delivery, then why would it be necessary for the שליח to retrieve the גט. It should be sufficient that he merely informs the ב"ד בפ"נ. On the other hand, even though it is apparent that he is required to say בפ"נ at the point of delivery, nevertheless –

והוא הדין לאחר נתינה תוך כדי דיבור³ דמהני -

The same rule applies even if it was said after the delivery (provided that it is said); within the time limit of a דיבור, it is valid.

will offer a proof that saying בפ"נ after the נתינה, but תוך כדי דיבור, is valid:

מדקאמר לעיל שנתנו לה כשהיה פיקח ולא הספיק לומר בפני נכתב עד שנתחרש -

Since the גמרא previously⁴ said: 'that he gave her the גט when he was normal and he did not manage to say בפ"נ before he became a deaf mute'. He must have given the גט while he was a פיקח. Otherwise it would not be a גט כשר if a חרש delivered it. It seems that if he had not become a חרש he would still be able to say בפ"נ (תוך כדי דיבור) even though he delivered the גט already. That would agree with the previous conclusion that the שליח תוך כדי דיבור may say בפ"נ.

presents us with a dilemma.

¹ See 'Thinking it over' # 2.

² The commentaries offer various reasons why בפ"נ should be said בשעת נתינה. It may be either because the bestowal of this trustworthiness only to a שליח, and afterwards (or before?) he is not considered a שליח; or because the שליח is מידק דייק only at the time of the delivery of the גט, etc.

³ תוך כדי דיבור is the time it takes to say the phrase ורבי עקיבא וכו'. Any delay less than that is not considered a delay at all.

⁴ דף ה,א.

אבל לאחר כדי דיבור מספקא לרבינו יצחק אי מהני כל זמן שעסוקים באותו ענין⁵ -
However, after a delay of דיבור the ר"י is uncertain; whether it should be valid when he says בפ"נ as long as they are still involved in the delivery of the גט. Perhaps this is still considered נתינה -

או לא -

Or perhaps it is not valid; since it is לאחר כדי דיבור it is not נתינה.

תוספות presents an additional predicament:

וקודם נתינה מספקא לרבינו יצחק נמי אי מהני -

And if the שליח said בפ"נ before⁶ the delivery of the גט, the ר"י is equally unsure if it is valid.⁷

תוספות anticipates a possible resolution to this query and rejects it.

ומדתנן בפרק כל הגט (לקמן דף כט,ב) המביא גט ממדינת הים וחלה -

And from that which the משנה teaches us in פרק כל הגט, that 'one who is bringing a גט from overseas and became ill before he was able to deliver the גט to the אשה -

עושה בבית דין שליח ואומר כולי -

The שליח appoints another שליח in בי"ד as his replacement and the original שליח says in בי"ד, etc. בפ"נ. It seems from there that בפ"נ may be said even before the אשה. In this case the שליח is saying בפ"נ before the delivery of the גט to the אשה.

תוספות rejects this proof, saying:

אין ראיה דהרי אומר כשהגט יוצא מתחת ידו:

There is no proof from that משנה that one may say בפ"נ before he delivers the גט, for there he is saying בפ"נ when the גט is parting from his hand. The שליח is actively involved in the continuation of his שליחות, by appointing another שליח, and delivering the גט to him. However our query is if he may say בפ"נ while the גט is still in his possession, when he is not actively delivering the גט.⁸

SUMMARY

תוך כדי דיבור The שליח says בפ"נ at the point of delivery. It may also be said

⁵ We find by קידושין if the man and woman were 'עסוקין באותו ענין' (regarding קידושין) and he was מקדש her; she is מקודשת; the question here is if the same applies to בפ"נ.

⁶ It is assumed that this took place before כדי דיבור of the נתינה. See מהר"ם שי"ף.

⁷ It is questionable if תוספות is discussing when they are עסוקין באותו ענין or even when not עסוקין. See 'Thinking it over' # 1.

⁸ The חכמים instituted that only a שליח is believed when saying בפ"נ. He must be actively involved in the שליחות in order to be believed. See et al. סוכ"ד, בל"י, נח"מ.

after the delivery (or before the delivery). It is questionable what if the שליח would say בפ"נ after the delivery but they were still ענין באותו ענין. Similarly it is questionable if he said בפ"נ before the delivery if it is valid. It is not comparable to יוצא מתחת ידו is גט, עושה שליח בבי"ד, for there the גט is not comparable to יוצא מתחת ידו.

THINKING IT OVER

1. How can we explain that the ספק if בפ"נ is valid is only if עוסקין לאחר נתינה is only if עוסקין באותו ענין; however the ספק if בפ"נ is valid is only if עוסקין באותו ענין? ¹⁰

2. rules that the אמירת בפ"נ must take place בשעת הנתינה (and תוספות proves it). ¹¹ What (however) is the reason that it needs to be said בשעת הנתינה? ¹²

⁹ See footnote # 7.

¹⁰ See נח"מ.

¹¹ See footnote # 1.

¹² See בל"י אות קכ.