

Rely on these

סמוך אהני –

OVERVIEW

The גמרא is presently assuming that when the משנה states אם יש עליו עוררים, we are discussing a situation where two witnesses claim that it is a forged גט. The משנה is therefore saying that in such a case if we find two witnesses that will authenticate the גט, it will be considered a valid גט. To which the גמרא asks; why should we rely on the two who authenticate the גט? Let us rather rely on the two who invalidate the גט. The question תוספות is addressing is, why should we rely on those who invalidate more than those who authenticate.

שפוסטלין החתימה ולוקמה בחזקת אשת איש -

who invalidate the signatures, equally with those who authenticate the signatures; and therefore since there are two conflicting sets of עדים, so let us place her in her original status, that she is a married woman¹.

SUMMARY

The עדות עדי ערעור and עדי קיום contradict each other, forcing us to place the woman in her original status as an אשת איש.

THINKING IT OVER

Does the גמרא (and תוספות) mean when it says: 'סמוך אהני', that she is a ודאי? ספק א"א or א"א?

¹ In a case of two conflicting sets of תרי ותרי – עדים, there are two opinions. One is that תרי ותרי is a ספק אסורה להנשא and no חזקה can resolve the issue. In our case she would be a ספק אשת איש and thereby אסורה להנשא. The other opinion is that by תרי ותרי then תורה מן התורה we follow the חזקה; however מדרבנן it remains a ספק. In our case, she would seemingly be אסורה because of the חזקת אשת איש. [The ספק מדרבנן would be irrelevant in face of the חזקת איסור.] It would seem that תוספות is following the opinion that תרי ותרי is a ספק. According to the שיטה that תרי ותרי is a ספק, it is only because there is a חזקת א"א that she is אסורה. See מהרש"א (הארוך) וכו'.

Alternately one may say that תוספות is saying that even if תרי ותרי is a ספק דרבנן, nevertheless she is אסורה since there is a חזקת א"א. One may think that the תרי ותרי, עדי קיום and עדי זיוף cancel out each other; leaving the חתימה עדי חתימה as עדים כשרים, since שחזקה עדותן בבי"ד. Therefore she should be בחזקת מגורשת. Nevertheless we say that she is בחזקת א"א; the עדי זיוף do not only contradict the עדי קיום, they also contradict the חתימה עדי. There is no ודאי גט. There is only the חזקת א"א. See פנ"י וכו'.