

## שוו למוליד ולמביא –

They are the same concerning sending and bringing a גט

### OVERVIEW

The משנה is teaching us that when sending a שטר שחרור ממדה"י for an עבד, the שליח is required to say בפנו"נ; implying that the שליח is believed and no other עדים are required to validate the גט. Our תוספות seeks an explanation why is an אחד believed in this situation.

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תוספות asks:

**ואם תאמר בשלמא באשה הוי משום עיגונא אבל בעבד מה עיגון יש -**

**And if you will say; granted by a woman,** we believe the שליח that it was בפנו"נ, even though he is only an אחד, **because** of our concern that she not remain an <sup>1</sup>עגונה, **however** concerning an עבד **what** possible **עיגון can there be** if we do not believe the שליח, but rather require two עדים to prove the validity of the שטר שחרור? He is not bound by the איסור אשת איש as the woman receiving the גט is. Why therefore should an ע"א be believed?!

תוספות anticipates a possible explanation:

**דאי משום דאסור בבת חורין ובשפחה -**

**for if** you will argue there is עיגון here as well. At this stage, when the עבד receives the שטר שחרור, he is **forbidden** to marry both a **free woman and a slave woman**; since we lack the עדים to validate the שטר שחרור. The עבד cannot marry a שפחה for we do not know for sure that it is a valid שחרור גט. He cannot marry a בת חורין either for it is possible that it is a valid שחרור גט and he is a בן חורין who is בשפחה. It is on account of this עיגון, that we should believe the שליח that בפנו"נ.

תוספות refutes this explanation; if this is the concern, there is a simple solution:

**לא ליתביה האי שליח לעבד גט זה שהביא ממדינת הים ולא יאסר בשפחה<sup>2</sup> -**

**The שליח should not give to the עבד this שחרור גט** that he brought from overseas **and the עבד will not be forbidden** from marrying a שפחה. This status should remain until two עדים are found to validate this שטר שחרור then the שליח will deliver it to him, and he will be בבת חורין. In this way there will be no עיגון. When the

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<sup>1</sup> We will have to wait until two עדים come and are מקיים the גט (and testify that it was written לשמה). This may prove to be rather difficult. Therefore to prevent this עיגון the חכמים were מקיל to believe an ע"א, as we learnt on ט,ג,א.

<sup>2</sup> See 'Thinking it over' # 2.

שליח brings the שטר שחרור he does not give the שטר to the עבד until the עדים are found. During this time the עבד is מותר בשפחה, since he is still an עבד. He did not receive the שטר yet. Once we have the עדים, the שליח gives him the גט; the עדים validate it and he is מותר בבת חורין. There is no עיגון. The question remains why do we believe an ע"א, i.e. the שליח, when there is no problem of עיגון.

answers: תוספות

**ויש לומר דחשוב עיגון הא דאסור בבת חורין ומה שאינו מתחייב במצות:**

**One may say; that the fact that the עבד is חורין and the fact that he is not obligated to observe the מצות, that is considered an עיגון.** The term עיגון<sup>3</sup> is not limited to a situation where one cannot marry at all. The term עיגון<sup>3</sup> also applies to situations where one may not marry an appropriate wife (even if he may marry someone less desirous from a תורה perspective). It applies to situations not directly connected to marriage. If one is prevented from doing מצות, that too is considered an עיגון. Therefore we cannot say, hold back on the giving of the שטר שחרור until he finds עדים. The עבד will nevertheless experience עיגון by not marrying a בת חורין and also by not being able to be מקיים the מצות.

## SUMMARY

The שליח who brings a שטר שחרור is believed to say בפנו"נ because of the עיגון of the עבד. The עבד will not be able to marry a בת חורין (even though he can marry a שפחה) and will not be able to be מקיים מצות unless the גט is validated. This depravation is considered sufficient עיגון to cause the חכמים to enact that we believe the testimony of the שליח.

## THINKING IT OVER

1. Seemingly, at the point being discussed, namely prior to giving the שטר שחרור to the עבד, the status of the עבד is clear. He is an עבד. Why are we concerned about his ability to marry a בת חורין or to be מקיים מצות? Are we concerned about עבדים being מקיים מצות or marrying בנות חורין?!<sup>4</sup>

2. How can תוספות suggest that the שליח should not give the שטר שחרור to the עבד;<sup>5</sup> since the rule is that once the master gave over the שטר שחרור to the שליח, the עבד becomes free immediately for זכין לאדם שלא בפניו?<sup>6</sup>

<sup>3</sup> The word עיגון is usually translated as stranded or anchored.

<sup>4</sup> See נח"מ.

<sup>5</sup> See footnote # 2.

<sup>6</sup> See נח"מ and מהר"ם שי"ף.