

We tear a blank paper for them

מקרעין להם נייר חלק -

OVERVIEW

There is a dispute between רש"י and תוספות as to how the process of 'מקרעין' actually takes place.

פירוש בקונטרס מסרטין -

רש"י explains that the term מקרעין should be understood as 'scraping'. The names of the עדים were scraped (or scored) on the document, and the witnesses signed, on their scored names.

תוספות wonders:

אף על גב דחקיקה חשיבה כתיבה כמו כתב על גבי טבלא ופנקס¹ -

Even though the rule is that engraving is considered writing, as we find the statement: 'He wrote the שטר upon a tablet or a board'². The writing there was done by engraving, and nevertheless we consider it a valid writing. Nonetheless -

הכא לא חשיב כתב על גבי כתב דפסלינן בפרק ב' (לקמן דף יט, א) -

Here in our case, it is not considered as writing upon a writing, which we invalidate in the second פרק. Wherever writing is required, if it is written over a previous writing, it is not considered valid writing³. תוספות is asking that similarly here this scoring should be considered the first writing. The signing by the witness on top of the scoring is writing upon writing. This should make the חתימה פסול.

תוספות explains, we are not concerned that the scoring should be being considered 'writing' -

דאין כאן כתיבה גמורה אלא שרושמינן קצת כדי לחתום עליו עדים -

For here the scoring is not exactly writing as in the case of טבלא, rather they mark the paper slightly in order that the witnesses should sign, over the mark. The scoring is not the usual manner in which things are written and recorded (it may become illegible in a while); as opposed to engraving on a tablet, which is the usual and customary manner to record certain data.

תוספות bolsters his answer.

ועוד דאפילו דיו על גבי סיקרא חשיבא לקמן בפרק ב' (גם זה שם) כתב לענין שבת -

¹ See דף כ, א. See 'Thinking it over' # 2.

² In that particular case the עבד was freed with this שחרור.

³ The גמרא there quotes ר"י ור"ל if one writes with ink over previously written letters in ink on שבת he is not חייב; it is a כתב ע"ג כתב. The same holds true by writing a גט. The second writing is not considered writing.

And furthermore even if one writes with regular ink on red dye it is considered, later in the second פרק, as writing in regards to שבת. If one writes בדיקרא בשבת he is חייב. It is a valid כתב.

אף על פי שהסיקרא לבדה היא כתב -

Even though that writing with סיקרא only, is also considered writing. The reason is because the second כתב with דיו is different and an improvement on the original סיקרא of כתב. In our case the signing of the עדים is certainly different and better than the original markings. It is therefore considered a כתב⁴. This concludes תוספות defense of פירוש רש"י.

רש"י has, however, another question on תוספות

אבל לשון מקרעין לא משמע כפירוש הקונטרס דהוה ליה למימר מסטריין -

However the expression 'מקרעין', which means tearing, does not support s'י' explanation for according to רש"י, the גמרא should have said 'מסרטיין', we scratch (score). This would have been the appropriate word.

תוספות offers his explanation:

ורבינו תם פירש שלוקחין נייר חלק ומקרעין עליו שמות העדים מעבר לעבר -

And the ר"ת explains the process of מקרעין; that we take a blank paper and we tear out of the paper through and through, the names of the witnesses. A stencil is made with the names of the witnesses cut out –

ומשימין אותו על הקלף שהגט כתוב בו -

And we place this stencil over the parchment upon which the גט is written. The stencil with the cut out names, is placed below the actual גט; over the area where the עדים usually sign –

ובאין העדים וממלאים את הקרעים דיו ונכרת הכתיבה על גבי הגט -

And the witnesses come and fill in the cutouts with ink and the written names are observed upon the גט.

⁵ תוספות poses a question to his explanation

בירושלמי פריך והלא כתב ראשונה הוא פירוש ואין הגט יכול להתקיים בחותמיו -

The גמרא asks: But is this not the first handwriting?! The

⁴ Actually the גמרא there (יטא) questions whether סיקרא דיו ע"ג is a כתב concerning גיטין and therefore disqualifies it. Nonetheless תוספות answer is to be understood as follows: If by סיקרא דיו ע"ג where the סיקרא is a גמור nevertheless concerning שבת the סיקרא דיו ע"ג it is (definitely) considered a כתב, and by גיטין it is (at least) doubtful whether it is a כתב, then certainly by writing on a סריטה which is merely an insignificant marking, the following חתימה is certainly a כתב even by גיטין. See תוספות הרא"ש ש.

⁵ See מהר"ם שי"ף.

explanation of the s'ירושלמי question is: **The גט cannot be authenticated by its signatories;** since it is not the handwriting of the witnesses. The witnesses are merely filling in the cutouts on the stencil. We cannot recognize their signature. The signatures will appear in the shape that the first and original preparers of the stencil formed.⁶

ומשני כשהרחיב להם את הקרעים והעדים אין ממלאין לגמרי כל רחב הקרע:
And the תלמוד ירושלמי answers that he made the cutouts very wide for them and the witnesses are instructed not to fill in completely the entire width of the cutout. We can therefore recognize the uniqueness of their signature in the manner they fill in the cutouts.

SUMMARY

There is a dispute between רש"י and תוספות as to the explanation of 'מקרעין' להן נייר'. According to רש"י it means that the גט itself is scored in the place where the עדים sign. The עדים sign on the actual scoring. This is not considered כתב ע"ג כתב since the scoring is merely a marking not an actual כתב.

תוספות argues that term מקרעין is inappropriate according to רש"י. The term מסרטין should have been used.

תוספות maintains that their names were cut out on a stencil. The stencil was placed over the גט. The עדים filled in the cutout. According to the ירושלמי the cutouts were made wide so the עדים filled in the cutouts only partially. This enabled חתימות מקיים to be בי"ד.

THINKING IT OVER

What does the term 'נייר חלק' signify; according to רש"י? תוספות?

2. However since we discuss whether the חתימה is a כתב ע"ג כתב.⁸ However since we maintain that עדי מסירה כרתי, why is there a concern that it is a כתב ע"ג כתב?⁹

⁶ Perhaps תוספות is quoting the ירושלמי to prove that his interpretation, as opposed to רש"י is the correct one. According to רש"י where the עדים write upon the scored names, the ירושלמי question is not quite understood. When writing over the scored names there can be a marked difference in the manner it is overwritten. According to תוספות explanation where the עדים merely fill in the cutout, there can be no distinction.

⁷ See אמ"ה # 51.

⁸ See footnote # 1.

⁹ See אמ"ה # 48.