

נבעלה maintains that it means רב אסי

רב אסי אמר נבעלה -

OVERVIEW

נאמנת maintains that when the משנה states that if ראוה מדברת כו' she is not נאמנת according to ר"י; the term מדברת means that there were שנבעלה. Otherwise if there are no שנבעלה, only שנסתרה, the woman is נאמנת. It is not clear what is meant by נאמנת if there are שנסתרה. Does it mean she is נאמנת (only) if she claims תוספות? לכשר נבעלתי (even) if she claims נאמנת; לא נבעלתי; or is she נאמנת will address this issue.

אבל נסתרה מודה רבי יהושע דנאמנת לומר לכשר נבעלתי במגו דאי בעיא אמרה לא נבעלתי -
However if she (merely) secluded herself with this person; there were only עדי
נבעלה **ר"י would agree that she is believed to say I was** **נבעלה** **to a כשר** **for she has a מיגו, that she could have said, I was not** ¹.

תוספות asks:

ואם תאמר והא רבי יהושע לית ליה מגו גבי משארסתני נאנסתי -
And if you will say; but ר"י does not utilize a מגו concerning the case where the woman claims **'I was forced after I was betrothed'**. In the case² where the woman claims משארסתני נאנסתי and the husband claims נאנסתי, the ruling according to ר"י is that she is not believed and cannot collect her (full) כתובה. Seemingly she has a מגו there, for she could have claimed אני מוכת עץ³. It is on the basis of this מגו, that ר"ג ור"א maintain that she is נאמנת and collects her כתובה⁴. The fact that ר"י disagrees proves that he maintains that a מגו is insufficient, to believe her. Why is it that here ר"י maintains that if she was (only) נסתרה, she is believed to claim לכשר נבעלתי based on the מגו, that she could have claimed נבעלתי? Why is this מגו effective and the מגו of מו"ע not effective?!⁵

תוספות answers:

ויש לומר דהתם לא הוי מגו גמור דהא אפילו אי אמרה מוכת עץ אני -
And one can say that there in the case of משארסתני נאנסתי, the claim of מוכת עץ is
not an ideal מגו for even if she claimed that she is a מוכ"ע, nevertheless -
אינה נאמנת לרבי יהושע כדתנן במתניתין⁶ -

¹ See 'Thinking it over' # 1.

² משנה יב,ב.

³ מגו is. תוספות will shortly explain what the

⁴ רש"י יב,ב ד"ה אלא and דף טז,א on גמרא.

⁵ See 'Thinking it over' # 2.

⁶ משנה יב,א, דף יג,א.

She is not believed according to ר"י to collect her כתובה as we learnt in the משנה; that ר"י maintains that even if she claims מוכ"ע she cannot collect her כתובה.

anticipates a question; If מוכ"ע is not a believable claim why does the גמרא refer to it as a responds: תוספות מיגו?

ולא קרי ליה מגו אלא לפי שהיא טענה מעולה ביותר:⁷

And the claim of מוכ"ע **is not called a מגו**, like other מגו, where if the claim were used it would be accepted; this is not the case by the claim of מוכ"ע, **rather** it is called a מגו only **because it is a better claim**; but not that it is a believable claim.⁸ The claim of נבעלתי however is a believable claim; therefore it is an effective מיגו.

SUMMARY

According to ר"י in a case of נסתרה, she is believed to claim נבעלתי with a מגו of נבעלתי. This מגו is a believable claim as opposed to the מגו of מוכ"ע, which is merely a better (but not a [more] believable) claim.

THINKING IT OVER

1. According to רב אסי in a case of נסתרה she is believed to claim נבעלתי.⁹ It is seemingly not clear, from where תוספות derives this.¹⁰ Perhaps רב אסי merely maintains that by נסתרה, she is believed to claim נבעלתי; but not לכשר נבעלתי (because this מיגו is not effective)?

2. תוספות asks what is the difference between the מגו of מוכ"ע אני and the מגו of לא נבעלתי.¹¹ Seemingly there is a distinct difference; the מגו of מוכ"ע אני is being used to extract money from the בעל, therefore ר"י maintains that a אמרינן לא נבעלתי. However the מגו of לא נבעלתי is concerning (only) איסור (לכהונה), therefore ר"י maintains that it is an effective מיגו.¹²

⁷ See ד"ה אלא, רש"י יב,ב ד"ה אלא, that when a woman claims משארסתי נאנסתי she becomes לכהונה; however if she claims מוכ"ע, then she remains לכהונה. A כהן is אסור to marry an אנוסה (באיסור), but not a מוכ"ע.

⁸ See 'Thinking it over' # 3.

⁹ See footnote # 1.

¹⁰ See מהרש"א.

¹¹ See footnote # 5.

¹² See סוכ"ד אות כ"ד and מהר"ם שי"ף, רש"ש.

3. תוספות maintains that the claim of מוכ"ע is not a believable claim (according to ר"י) and the reason the גמרא refers to it as a מיגו is because it is a טענה מעולה ביותר.¹³ Seemingly when the גמרא refers to מוכ"ע as a מיגו,¹⁴ it is discussing the opinions of ר"ג ור"א. However, they maintain that מוכ"ע is believed!¹⁵ תוספות should have (merely) said that according to ר"י the מוכ"ע claim is not believable.

¹³ See footnote # 8.

¹⁴ דף טז,א.

¹⁵ משנה (הא') יג,א.