

נשביתי וטהורה אני למה לי –

Why do I need to mention the case of נשביתי וטהורה אני

OVERVIEW

The גמרא asks that once the משנה taught us that הפה שאסר is effective even by איסור (אשת איש הייתי וגרושה אני), why is it necessary to teach us the rule of הפה שאסר in the case of נשביתי וטהורה אני (which is not as strict as א"א). The גמרא answers that the משנה wants to teach us that in the case of נשביתי וטהורה אני if we testify later that she was נשבית, nevertheless, ¹ Our תוספות clarifies why the גמרא did not initially offer an alternate answer.

asks: תוספות

וקשה לרבינו שמשון בן אברהם אמאי לא משני –

The רשב"א has a difficulty; why did not the גמרא answer that the משנה mentions the case of נשביתי וטהורה אני –

משום דבעי למיתני סיפא אם יש עדים שנשבית ואמרה טהורה אני אינה נאמנת² –

Because it wants to teach us the סיפא, that if there are עדים that she was captured and she claims טהורה אני, she is not believed.³

answers: תוספות

ויש לומר דמשום הא לא אצטריך דמסיפא דמתניתין שמעינן לה –

And one can say; that on account of this aforementioned חידוש it is not necessary for the משנה to teach us the ruling by a שבויה, for we derive this from the סיפא of our משנה –

דקתני סיפא⁴ עיר שכבשוה כרכום⁵ כל כהנות שנמצאו בתוכה פסולות –

Where the משנה teaches in the סיפא; 'a city which was captured by a כרכום, all

¹ The גמרא then challenges this answer (and offers an alternate answer).

² This חידוש is that even though the עדים do not testify on her טומאה (merely that נשבית), nevertheless she is not נאמנת to say טהורה אני. The משנה is teaching us the rule that a שבויה is אסורה לכהונה and (therefore) there is no מיגו (see 'Thinking it over' # 3). This would be even a greater חידוש according to שתי ד"ה תוס' כג, ד"ה שתי that the case of נשביתי וטהורה is even in a situation where when the woman said נשביתי she was not aware that there are נשביתות and nevertheless she is not believed. See 'Thinking it over' #2.

³ The advantage of 'תוס' answer is that there would not be the challenge which the גמרא poses (see footnote #1). [In addition, according to the גמרא's answer that even if עדים came later תצא, the חידוש is a leniency (by שבויה); however according to 'תוס' answer the חידוש she is not נאמנת (even if she was not aware of the עדים) is a strictness. חומרא of a חידוש is only מדרבנן (and consequently in some cases we are lenient by a שבויה) therefore the חידוש of a חומרא by a שבויה is greater than the חידוש of a קולא by a שבויה.]

⁴ כז, א. See 'Thinking it over' #1.

⁵ כרכום means a siege (see ד"ה כרכום there רש"י). The city was captured after it was besieged by gentiles.

the כהנות that are found within the city are unfit for כהנים -

ואינה נאמנת לומר טהורה אני:

And she is not believed to claim טהורה אני.⁶

SUMMARY

We can (also) know the ruling that if there are שנשבית עדים, she is not believed to say טהורה אני, from the משנה of כרכום עיר שכבשוה כרכום.

THINKING IT OVER

1. תוספות states that we would know the rule that if שנשבית עדים testify that she is not נאמנת from the סיפא of כרכום עיר שכבשוה כרכום.⁷ Seemingly תוספות could have said that we know it from the משנה of שנשבו עדים, which must be discussing a case of באו עדים (for that is why she is not עצמה על נאמנת); why did תוספות find it necessary to cite a later משנה, when he could have cited an earlier משנה?!⁸

2. According to footnote #2 תוספות answer is not understood, since from the משנה of כרכום עיר שכבשוה כרכום, we derive a greater חידוש than from the משנה of נאמנת ואם יש עדים וכו' אינה נאמנת לומר טהורה אני. The משנה of נשביתי (וטהורה אני) teaches us that even if she said without knowing that there is שנשבית עדים (which seemingly shows that she is honest), nevertheless she is not believed to claim טהורה אני. We cannot derive this from כרכום. Seemingly how did תוספות answer his question?⁹

3. תוספות asks that the גמרא should have answered that the חידוש is that if there are עדים that she is a שבויה, she is not נאמנת.¹⁰ Seemingly this can be derived from the הפה שאסר regarding רישא that if there are עדים she loses her שבויה; why is it necessary to state ואם יש עדים שנשבית וכו'?!¹¹

⁶ She is not believed to say טהורה אני since we are all עדים that they were captives. We can derive from there that a woman is not believed to say טהורה אני (נשביתי) when there are שנשבית עדים.

⁷ See footnote # 4.

⁸ See מהרש"א [הארוך].

⁹ See חת"ס (עד"ז).

¹⁰ See footnote # 2.

¹¹ See אילת אהבים.