

הרי שאמר בני זה וכהן הוא – He said, this is my son and he is a *Kohain*

OVERVIEW

The גמרא cites a ברייתא in which רבי was מעלה a person לכהונה (for תרומה only, but not for יוחסין) based on the testimony of his father. רבי explained that the father is believed להאכילו תרומה, since it is בידו להאכילו תרומה (but not בידו to marry him to a מיוחסת).¹ Our תוספות clarifies this case.

מדנקט בני זה וכהן הוא משמע שאינו ידוע לנו אם הוא בנו -

Since the ברייתא mentions that the father said, 'this is my son and he is a כהן', this indicates that it is not known to us whether this is his son, without the testimony of the father -

והוא בא להעיד שהוא בנו ושהוא כהן² שאינו בן גרושה -

And the father comes to testify that this is his son, and also that he is a כהן, meaning that the son is not the son of a divorcee which would disqualify him from לכהונה. Now תוספות proves his point -

דאי ידוע לנו שהוא בנו³ הוה ליה למינקט בני זה כהן בלא וי"ו -

For if we are discussing a case where it is known to us that this is his son, the father should have stated that the father said, 'my son here, is a כהן', without the 'וי"ו' (without the 'and' which makes it into two testimonies).

תוספות asks:

ותימה אם כן יהא נאמן לכולי עלמא⁴ לתרומה⁵ וליוחסין במגו דאי בעי אמר אינו בנו -

And it is astounding! If indeed it is so (that we do not know [on our own] that this is his son), the father should be believed according to everyone (even חייא ר' for both תרומה and יוחסין, for he has a מגו, that he could have said he is not his son, but nevertheless he is a כהן; in which case since he is not related he would be believed (together with another עד) even for יוחסין. On account of this מגו we should also believe him now (together

¹ This means that if we require two עדים for יוחסין and there is an ע"א who is testifying that the son is a כהן, the father cannot be the second עד להעלותו ליוחסין (see following 'תוס' ד"ה נאמן הא').

² Seemingly it is obvious that if the father is a (known) כהן then if we believe him that this is his son, the son is also a כהן, why the need to add הוא וכהן; therefore תוספות explains that the testimony is that he is not a גרושה, which would make him a חלל who is מכהונה.

³ If it is known that he is בנו, (obviously) he would be believed להאכילו תרומה, but may not be believed ליוחסין if there is a קול that the son is a בן גרושה. The dual חידוש of this case where we do not know that he is his son is that נאמן בן גרושה, and להאכילו תרומה even if there is no קול that he is a בן גרושה.

⁴ See 'Thinking it over'.

⁵ אינו בנו need not have said that he is להאכילו תרומה because it is בידו, but rather because he has a מגו of בנו.

with another (עד) even for יוחסין.

answers: תוספות

ויש לומר דאף על גב דאיכא מגו לא מהימן לדבריו קרוב הוא⁶ -

And one can say; that even though the father has a מגו, he is not believed, because according to his testimony he is a relative and therefore - פסול לעדות

כדאמרין בהחולץ⁷ (יבמות דף מז, א ושם) לדברך כותי אתה ואין עדות לכותי⁸ -

As כותי, according to your words you are a relative, פרק החולץ said in רב נחמן בר יצחק, and a כותי cannot testify' -

ואין אדם נאמן לפסול את בנו -

And a person (this purported כותי) is not believed to disqualify his son.

anticipates a difficulty (with his view that since אתה קרוב לדברך there can be no מגו):

ואף על גב דרבי קאמר בסמוך אני מאמינו להאכילו בתרומה שהרי בידו¹⁰ להאכילו בתרומה -

And even though רבי shortly states, 'I believe the father להאכילו בתרומה since it is in his power להאכילו בתרומה' -

אלמא אף על גב דקרוב הוא לדבריו נאמן במגו¹¹ -

It is evident from this reasoning of רבי that even though that according to the father's words he is a relative, nevertheless he is believed with a מגו להאכילו תרומה; why therefore is he also not believed with a מגו (that אינו בנו) to be מעלה ליוחסין?

responds: תוספות

התם ודאי מהימנינן ליה משום דאית ליה מגו אפילו ידעינן שהוא בנו -

⁶ In a case of a regular מגו, for instance במגו דמזוייף, פרעתי is a valid claim; however it is considerably weakened by the שטר which the מלוה is holding that indicates (but not conclusively) that he did not pay. The מגו of מזוייף is effective in supporting the valid claim of פרעתי to the extent that the מלוה cannot collect unless he is מקיים the שטר. However here (in order להעלותו ליוחסין or even להאכילו תרומה) we require עדות (either one for תרומה or two for יוחסין) so once he admits that this is his son; this is an invalid עדות since he is a קרוב and cannot testify for his son. Therefore, even though he has a מגו, but since there is no עדות, his claim is not accepted (see ח"ב מהוד"ק אות שמו ומ"ת אות שמב).

⁷ The case there is where someone approached ר' יהודה and told him that he was מתגייר by himself (which is an invalid גירוש). This 'גר' told ר"י that he has children (who were מוחזקים as ישראלים). ר"י told him you are believed to disqualify yourself (since משוי נפשיה חתיכא דאיסורא), however (from the perspective of your children) you are not believed (even in regards to yourself) to disqualify your children, because (as רנב"י explains there) according to your testimony you are a כותי and a כותי is פסול לעדות.

⁸ In this case of the גר, we really consider him a ישראל (see footnote # 7), so let us believe him that his son is a פסול with a מגו that he did not have to say that this is his son. He merely could have said, 'הוא פסול'. This proves that once he said בני, he is a קרוב and is not believed (even with a מגו).

⁹ See רש"י who writes תוה"ר נאמן אתה לפסול את עצמך ואי אתה נאמן לפסול בנך. See רש"י.

¹⁰ See רש"י ד"ה שיש; the father is a כהן and has תרומה and need not ask anyone permission to give it to his son.

¹¹ In both cases (תרומה ויוחסין) the father admits to being a קרוב, yet להאכילו תרומה he is believed להאכילו תרומה; במגו דאינו בנו he is not believed ליוחסין; why the difference?!

There (regarding תרומה), the father is **certainly believed** since the מגו (of בידו) **is valid even if we know that he is his son**¹² -

אבל האי מגו¹³ אי הוה ידעינן שהוא בנו ליכא מגו:

However this מגו (of אינו בנו) **to be מעלה ליוחסין, once we know that he is בנו, there is no מגו**, therefore since לדבריו קרוב הוא, there is no מגו.

SUMMARY

A מגו is not effective (by עדים) if they admit they are relatives. However the מגו of בידו is effective.

THINKING IT OVER

מגו asks that he should be נאמן לכ"ע (even according to ר"ח) because of the מגו that תרומה רבי even regarding תרומה. ¹⁴ Seemingly we see that ר"ח argues with רבי even regarding תרומה, even though that by תרומה there is the מגו of בידו להאכילו, ¹⁵ which proves that ר"ח rejects the concept of מגו here, so why would he agree to the מגו of אינו בנו! ¹⁶

¹² The מגו of בידו is a much stronger reason to believe him, for he need not come to בידו at all. The father is empowered להאכילו תרומה regardless (the father is considered as if he has ownership on to whom to give the תרומה), there is no need for עדות, and therefore even though he is a קרוב, the father is להאכילו תרומה.

¹³ The מגו of אינו בנו is a 'regular' מגו; it is not on account of בידו, therefore in order to be effective we still require a הגדת עדות (both for תרומה and ייוחסין). There cannot be a הגדות עדות since he is a קרוב.

¹⁴ See footnote # 4.

¹⁵ See the end of תוספות (footnotes 12 & 13) that he refers to להאכילו as a מיגו, and considers it a valid מגו even if אינו בנו is not a valid מגו. If ר"ח rejects the מגו of בידו he should certainly reject the מגו of אינו בנו.

¹⁶ See פרדס יצחק אות כה.