

אי ליתיה¹ ללוה לאו בתר ערבא אזיל –

If the borrower is not here, does he not go after the guarantor?

OVERVIEW

ערב; since the עדים cannot be relatives even to the ערב; since the מלוה will go to collect from the ערב (if the לווה does not pay), the ערב is considered as one of the litigants, and a relative to one of the litigants is פסול לעדות.

מכאן² דיש ליזהר בעדי ממון שלא יהו קרובים לא ללוה³ ולא לערב:

From here we can derive that one should be careful regarding witnesses in monetary cases that the witnesses should not be related, neither to the borrower, nor to the guarantor.

SUMMARY

One should be careful by monetary issues that the witnesses are not relatives even to the guarantor.

THINKING IT OVER

Can we offer an explanation why תוספות (according to our גירסא) does not mention⁴ 'ולא למלוה'?

¹ In our גמרא the text reads אי לית ליה (instead of אי ליתיה).

² Perhaps תוספות is teaching us that the הלכה is like ר"ה בריה דר"י, but not like רב פפא. Alternately תוספות is (merely) giving advice to the מלוה that to protect his loan he should make sure there are no קרובים עדים. See כוס הישועות. And אוצר מפרשי התלמוד # 39-40.

³ Others amend this to read, ללוה ולא למלוה ולא לערב (instead of ללוה ולא לערב). See 'Thinking it over'.

⁴ See footnote # 3.