

## רב חסדא לא סבר ליה דשמואל – שמואל does not agree with רב חסדא

### OVERVIEW

The רב and אבנא דכוחלא a woman with מקדש a person was גמרא relates that a person was מקדש a woman with אבנא דכוחלא (whereupon she would be פרוטה) or whether it was not a פרוטה (and she would not be מקודשת). The גמרא concluded that it is apparent that רב חסדא disagrees with the ruling of שמואל that we are concerned elsewhere. שמואל שמה פרוטה questions and explains this conclusion.

-----  
הכא לא מצי לשנויי הא בקידושי ספק כדלעיל –

Here, concerning the contradiction between the rulings of רב חסדא and שמואל, the גמרא **could not have answered**, that **this** which שמואל ruled that חיישין (and רב חסדא meant [that it is not] קידושי ודאי) **as the גמרא previously** reconciled the view of שמואל with that of ב"ה and with בר חייא.

The reason the גמרא could not have resolved this contradiction in a similar manner is -

משום דמייירי שקדשה אחיו<sup>1</sup> אחר כך בפרוטה –

**Because the case here was that his brother** (of the first מקדש) **was מקדש** this same woman **afterward with a פרוטה** -

והיה בא רב חסדא להפקיע קידושי ראשון כדאמר לאו כל כמינך דאסרת לה אבתרא<sup>2</sup> -  
And ר"ה was interested in invalidating the קידושין of the first brother (and to substantiate the קידושין of the second brother), as he said later in the גמרא to אימיה, 'you are not believed to prohibit her to the latter brother' who was מקדש her, with your testimony that on that day (when the first brother was מקדש) it was worth a פרוטה.

תוספות continues with his explanation:

ואי הוה אמר דראשונים ספק הוה אם כן צריך לומר דצריכה גט מראשון<sup>3</sup> –

---

<sup>1</sup> This is not mentioned in the גמרא; however תוספות assumes this in order to resolve the difficulty. See following footnote # 2 and 'Thinking it over'. It is however evident from the גמרא, that there was a subsequent קידושין (but not necessarily a brother).

<sup>2</sup> This phrase, דאסרת לה אבתרא, may indicate a permanent איסור. This would then lend support to תוספות contention that the two מקדשים were related (brothers). It is only in such a case that the woman becomes אסרה permanently on the latter one, even if she receives a גט from the first מקדש (as opposed to unrelated מקדשים where the איסור on the בתרא is temporary until a גט is given from the first מקדש).

<sup>3</sup> גט. קידושי ספק also require a גט.

**And if the גמרא would have said** (as it did in the previous resolution) **that the קידושין of the first brother are in doubt** (there is a possibility that it was a valid קידושין [as שמואל maintains]), **then it would be necessary to assume that she requires a גט from the first** brother in order to marry the second brother - **אם כן תהיה אסורה משום דהויא גרושת אחיו<sup>4</sup>:** **in which case she would be forbidden** to the second brother, **since she would be considered a divorcee of one's brother** which is אסור. Therefore we must say there is no need for a גט because there is no ספק קידושין; this proves that רב חסדא argues with שמואל.

### SUMMARY

רב חסדא cannot agree with שמואל since he was attempting to validate the קידושין of the second brother, implying that the קידושין of the first is totally invalid.

### THINKING IT OVER

תוספות interprets the case of רב חסדא where קדשה אחיו אח"כ which proves that he disagrees with שמואל. Seemingly this is unnecessary, the same proof can be if anyone was מקדש her afterwards. If the first was willing to give a גט then what did רב חסדא mean by saying אבתרא לה, there is no איסור if he gives a גט. It must therefore be a case where the first מקדש refuses to give a גט and רב חסדא wanted to substantiate the בתרא קידושין, this proves that he disagrees with שמואל, for according to שמואל she could not marry the second מקדש without a גט from the first.<sup>5</sup>

---

<sup>4</sup> אסור is also ספק גרושת אחיו.

<sup>5</sup> נח"מ and מהרש"א הארוך See.