

Since it takes out a Jewish daughter

שכן מוציא בבת ישראל –

Overview

The גמרא explains that we would rather include שטר as one of the קנינים by which an אמה העבריה is acquired (rather than חזקה), since we find that שטר is effective by a גט to take her out of marriage (i.e. a גט), but we do not find that חזקה is effective by a בת ישראל.

תוספות responds to an anticipated difficulty:

הא דלא נקט שכן מכניס¹ דהוא דמי טפי משום דבגט כתיב בהדיא:

This that the גמרא **does not mention**, in its response, that an אמה העבריה should be used this explanation), **since this** (מכניס) **is more similar** to אמה קנין than גט which is מוציא; the answer is **because regarding a גט** (which is מוציא) **it is written explicitly** in the תורה (however regarding being מכניס [through שטר] that is merely derived, but not written explicitly).

Summary

It is preferable to bring proof from something which is written explicitly in the תורה (even though it is not that similar), than to bring proof from something which is not written explicitly in the תורה (even though it is more similar).

Thinking it over

The discussion here in our גמרא is according to רב חסדא who maintains that it is the father (the מקנה)² who writes the שטר אמה העבריה. That could be the reason the גמרא prefers to derive it from גט where the בעל (who is the מקנה)³ writes it; as opposed to שטר קידושין where the איש (who is the קונה) writes it.⁴ Why did not תוספות use this distinction?⁵

¹ We are discussing the קנין, through which women (אשה or אמה) are acquired. It would be more appropriate to say that since an אשה is נקנית בשטר (it is מכניס), it should also be effective to be קונה an אמה העבריה; why mention גט which is not an acquisition as אמה קנין is.

² The father is granting his daughter to the אדון (the קונה).

³ The husband is granting to the woman her rights she no longer 'belongs' to her husband.

⁴ See רשב"א.

⁵ See ספר המקנה.