

Abayay said; against the will of the father - אמר אביי בעל כורחיה דאב

Overview

בעל כרחו cited a גמרא, which stated that an אמה העבריה is redeemed (even) against the will of her father. There is a dispute between רש"י and תוספות, what this means.

פירש בקונטרס¹ אם יש לו כופין אותו ופודה אותה -

רש"י explained, if the father has the means to redeem her, **forces** the father and he redeems his daughter.

פרש"י asks on תוספות:

וקצת קשה להרב רבינו מאיר² אם כן מאי קאמר בסמוך³ הכא נמי דאזיל ומזבין לה -
And הר"מ has a slight difficulty with פרש"י, for if indeed it is so (that we force the father), **what does the גמרא state shortly, 'here too the father will go and sell her again'**. This concludes the citation of the גמרא. The question on פרש"י is -

ומה תועלת במכירתו מאחר דנכוף אותו לפדותה⁴ -

But of what avail is there to the father by reselling her, since we will force him again to redeem her.

תוספות offers an alternate explanation:

ושמא יש לומר דנכוף בני המשפחה⁵ לפדותה בעל כרחיה דאב -

And perhaps one can say; that the meaning of **בע"כ של אב** is **that we will force the family members** (not the father [who has no money]) **to redeem her even** -
בע"כ דאב; the father may not agree for her to be redeemed-

משום דלא ניחא ליה לאב שתחזור לביתו ויהא פרנסתו לאב עליה -

Because the father is not satisfied that his daughter should return to his house

¹ בד"ה בע"כ.

² [If מאיר בן שמואל (ר' מאיר) means הר"מ, it may refer to s"t son-in-law (ר' מאיר בן שמואל), or it may mean משה and refer to one of the various משולם (ר' משה מקיבו, ר' משה בן אברהם, וכו') בעלי התוס' of ר' משה, etc.]

³ The גמרא asked according to אביי that we redeem the אב בע"כ של אב because of משפחה, the same should apply regarding an ע"ע that he should be redeemed בע"כ (through his family members). The גמרא answered there is no point in redeeming him בע"כ, for he will resell himself again after he is redeemed. The גמרא asks (as תוס' here cites), so here too by אמה, what is the point of redeeming her בע"כ, since the father will resell her.

⁴ By an ע"ע let us assume that he initially sold himself for six hundred (which he put in his pocket), the relatives redeem him a year later and pay the אדון, five hundred, the עבד is free and sells himself again for six hundred. There is no point in redeeming him for he will resell himself. However here if we are forcing the father to redeem his daughter (for five hundred), why will he sell her again, since we will force him again to redeem her. He is not gaining anything (substantial) by reselling her (as opposed to the עבד who realizes large gains).

⁵ See 'Thinking it over' # 1.

and the father will be responsible for her maintenance (food, shelter, etc.), nevertheless the family members are required to redeem her מפני פגם משפחה -

והשתא ניחא שפיר⁶ דהדר אזיל ומזבין לה:

And now it is well understood what the גמרא asks that by אמר העבריה too, **the father will go and resell her.**

Summary

According to רש"י we force the father to redeem her (if he is capable); according to תוס' we force the family members to redeem her (if the father is not capable).

Thinking it over

1. According to תוס' that we are forcing the בני משפחה to redeem her,⁷ why does אביי refer to it as בע"כ של בני המשפחה (ושל אב) he should have said בע"כ של אב⁸

2. Is there a dispute between רש"י and תוס' as to the הלכה? According to רש"י we force the father if he can afford it, according to תוס' we force the משפחה if the father cannot afford it;⁹ where is the מחלוקת?!

⁶ See footnote # 4. If the family members are required to redeem her it is profitable for the father to resell her (as it is profitable for the ע"ע to resell himself) since he is not paying for the redemption, but is getting paid for the sale of his daughter.

⁷ See footnote # 5.

⁸ פני יהושע.

⁹ תוספות cannot mean that we only force the משפחה, even if the father can afford it!