

זבוני הוא דלא מזבין לה הא יעודי מייעד לה –

Selling, he cannot sell her, but יעוד, he can be מייעד her

Overview

נישואין a status of אמה העבריה posed a query whether יעוד confers on the אמה בר אבואה פירש טליתו עליה גמרא, which states that once ברייתא, In response the גמרא cited a בריתא, which states that once (the master was מייעד her), the father cannot resell her. We can infer that the father is only limited in regard to selling her, but he can be מייעד her.¹ תוספות explains what is meant that the father can be מייעד her.

תוספות responds to an anticipated difficulty:²

לאו דוקא יעודי מייעד אלא רצונו לומר קדושי מקדש לה³ -

The גמרא does **not mean precisely** that he cannot be מייעד her, rather the גמרא means to say that he can be מקדש her to someone (even) after the יעוד –

תוספות explains how the גמרא inferred from the ברייתא that the father can be מקדש her:⁴

דאי לא היה יכול לקדשה אמאי קאמר שוב אינו רשאי למוכרה -

For if the father cannot be מקדש her (after יעוד), why does the ברייתא state, ‘the father can no longer sell her’ -

פשיטא אפילו לקדשה אינו יכול כל שכן למוכרה⁵ -

It is obvious that he cannot sell her; if he is not able even to be מקדש her, certainly he is not permitted to sell her!

תוספות offers an alternate understanding of the גמרא:⁶

ויש מיישבין הגירסא⁷ זבוני הוא דלא מזבין לה הא לשאר מילי מצי עביד -

¹ The גמרא concluded that if יעוד נישואין עושה, the father loses all his rights to his daughter after נישואין, so how can you say הא יעודי מייעד לה.

² What does it mean that he can be מייעד her. He cannot sell her again to a master that the master should be מייעד her, since the ברייתא clearly states (that after יעוד) the father cannot sell her.

³ See (also) רש"י ד"ה הא.

⁴ Perhaps the ברייתא means he cannot sell her and he also cannot be מקדש her.

⁵ The authority a father has over his daughter to be מקדש her is stronger than his power to sell her. He can sell her only while she is a נערה, but he can be מקדש her even while she is a נערה. Therefore if the rule was that the father cannot even be מקדש her, the ברייתא should have so stated and we would understand that he certainly cannot sell her. [Alternately it seems that the right to be מקדש her (where she is settled into married life, which is what every woman looks forward to), is much more benevolent and acceptable than selling a daughter into slavery. If he loses the beneficial right of קידושין, he should certainly be refused the (inconsiderate) right of selling her to עבדות.]

⁶ The previous explanation is wanting; why does the גמרא say הא יעודי מייעד לה, when it really means to say הא קדושי מקדש לה.

⁷ According to the גירסא of יש מיישבין the הא יעודי מייעד לה is precise; however it does not mean that the father can be

And there are those who resolve the גירסא of הא יעודי מייעד, as follows: we infer from the ברייתא that the father cannot sell her, but regarding other things, the father can still do them as an authority over his daughter – including קידושין -

וקא מתמה גמרא הא יעודי מייעד לה כלומר היכי אמרין דשאר מילי מצי עביד -

And the גמרא is astonished by this inference and asks, 'הא יעודי מייעד לה'; meaning how can you say that he has control over other things -

והא כבר יעודי מייעד לה ואי אמרת נישואין עושה אין לאביה רשות בה ודוחק⁸:

But he was already יעוד her, and if we assume that יעוד is עושה, the father has no rights over her after נישואין. But it is an implausible understanding of the גמרא.

Summary

הא יעודי מייעד לה means that he can be מקדש her, or possibly יעודי מייעד לה is not part of the inference (which is the unstated מצי עביד (הא לשאר מילי מצי עביד), but part of the question.

Thinking it over

What (other) difficulties are there with the explanation of the ויש מיישבים⁹

הא יעודי מייעד (מקדש) her, but rather that the אדון was already יעוד her.

⁸ The simple understanding of the גמרא is that הא יעודי מייעד לה is an inference from the statement לה מזבין לה הא יעודי מייעד לה is part of the question after an assumed, but not mentioned inference (הא לשאר מילי מצי עביד). This is not the (usual) syntax of the גמרא.

⁹ See footnotes # 7 & 8.