

## **האב זכאי בבתו וכולי – The father has rights in his daughter, etc.**

### **OVERVIEW**

The גמרא cites a משנה which states that a father has the rights to the קידושין of his daughter (up to and including the time when she is a נערה), whether it is שטר or קידושי כסף, ביאה here explains that concerning כסף, the father gets to keep it, and he accepts the שטר on her behalf, and he has the right to force her to become מקודשת בביאה. Our תוספות cites a ירושלמי which offers an alternate explanation of the rights of the father concerning ביאה קידושי.

מפרש<sup>1</sup> בירושלמי שיש לו זכות בביאה שנותנין לו שכר לקדש בביאה:

**This is explained in ירושלמי** to mean that the father **has a right in ביאה** to the extent **that they give the father payment** that he permit them **to be** מקדש his daughter **with ביאה** instead of being מקדש her with כסף or שטר.

### **SUMMARY**

The father owns the right of קידושי ביאה to the extent that the monies that people offer to be allowed to be מקדש בביאה, are to given to the father; not the daughter (the המתקדשת).

### **THINKING IT OVER**

What does it mean that they give the father the שכר לקדש בביאה? Is it something that is done voluntarily, then what is meant by the term זכאי?! It seemingly cannot be mandatory; for what is the source of this obligation. If it merely means that the father can refuse them his daughter for קידושי ביאה unless they pay him, then this is the same for all other modes of קידושין, where he can withhold his permission unless he is paid the sum he requests!

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<sup>1</sup> Tosfos is perhaps dissatisfied with פירש"י for the term זכאי seems to indicate a positive right (in the case of כסף he receives the money, by שטר he actualizes the קידושין); not merely a power of coercion (as it seems from פירש"י that he can force her to be מקודשת בביאה, but he has no actual positive participation in the קידושין).