

אלא לאו דקידשה איהי נפשה וקרי לה אלמנה - Rather is it not when she was Mekadaysh herself, and we call her an Almonoh

Overview

asked a question on עולא from a ברייתא which states that one is permitted to sell his daughter who was an אלמנה to a גט (כהן הדיוט to a גרושה or a כה"ג). The גמרא inferred that it must be in a case where she was מקדש herself (as a קטנה), and she is called an אלמנה; indicating that the קידושין are valid. תוספות explains why the question is only on עולא and not on שמואל (רב ו).

אלמא בעי גט או מיאון דאי לאו הכי לא קרי לה אלמנה¹ -

It is evident from this ברייתא that a קטנה שנתקדשה שלא לדעת אביה **requires** either גט or מיאון, **for otherwise** (if there is no need for גט or מיאון) the ברייתא **would not have called** this קטנה **an אלמנה** -

וקשה לעולא דאמר אפילו מיאון לא צריכה -

So there is a difficulty for עולא who maintains that a קטנה שנתקדשה שלא לדעת אביה, **does not require even מיאון** (so how can we have an אלמנה קטנה sold as an אמה)?

asks: תוספות

ואם תאמר אמאי לא משני דמיירי כשידכו² להכי קרי לה אלמנה³ -

And if you will say; why does not the גמרא answer, that the ברייתא is discussing a case of שידכו, therefore she is called an אלמנה?!

answers: תוספות

ויש לומר כיון דשידך היינו כמו שקידשה אביה⁴ ואם כן הדרא קושיא לדוכתיה -

And one can say that since there was a שידוך, it is just as if the father was מקדש her to this person, therefore the question of the גמרא initially returns 'to its place';
if the father was מקדש her -

ומי מצי מזבין לה והא אין אדם מוכר את בתו לשפחות אחר אישות -

¹ An אלמנה means a woman who was married to someone and became widowed. However, if this קטנה can dissolve the marriage without either receiving a גט or being ממאן, she was never married to him (even if she was not ממאן) to be considered an אלמנה if he dies.

² [However, רש"י there disagrees (according to the א"ד) and maintains that עולא argues even by שידכו that nothing is required.] maintained previously (מדב ד"ה מאן) that all agree that by שידכו we require גט ומיאון.

³ She can rightfully be considered an אלמנה, for if she would want to leave him while he was alive, there would be a requirement for גט ומיאון. See beginning of תוספות and footnote # 1.

⁴ The reason we are strict by שידך and require גט ומיאון (according to everyone as תוספות maintains) is because we are concerned that perhaps the father is agreeable to their marriage, therefore it is like קידשה אביה.

So how can he sell her (after she became an אלמנה), for a person cannot sell his daughter into slavery after she was married (and שידוך is the same as the father marrying her off) -

responds to the anticipated difficulty:⁵

אבל אליבא דשמואל ניהא דמוקי לה בלא שידכו וקרי לה אלמנה משום דבעי מיאון⁶ -

However according to שמואל it is satisfactory, for he will establish the ברייתא in a case where לא שידכו, and she is called an אלמנה because she required מיאון - אלא לעולא קשיא⁷ -

However according to עולא there is a difficulty, (for עולא maintains there is never a חיוב מיאון alone, so how can she be considered an אלמנה).

asks:

ואם תאמר ומגרושה לכהן הדיוט נמי תיקשי אפילו⁸ לרב ושמואל -

And if you will say; and from the case of the ברייתא which permits selling a גרושה to a כהן הדיוט, you can also ask even on רב ושמואל who argue with עולא; the question is - דהיכי משכחת לה גרושה לכהן הדיוט -

For how can we find a case of גרושה לכהן הדיוט by a קטנה to be sold as an אמה -

אי מיירי בשידכו⁹ מי מצי מזבן לה הא אין אדם מזבן כולי -

If we are discussing שידכו, how can the father sell her (to a כהן הדיוט), for a person cannot sell, etc. (his daughter אחר אישות) -

ואי מיירי בלא שידכו הא לא בעיא אלא מיאון¹⁰ והיכי קרי לה גרושה הא אינה אסורה לכהן -

And if she was אביה without נתקדש שלא לדעת אביה, so she only requires מיאון, so how does the ברייתא call her a גרושה,¹¹ since she is not forbidden to a כהן?!

answers:

ויש לומר דלעולם מיירי בלא שידכו ומיירי שכך אירע שלא מיאנה אלא גירשה -

⁵ If we assume that if the קטנה requires מיאון it is as if קידשה אביה, so how will שמואל explain the ברייתא; how can he sell her since א"א מוכר את בתו לשפחות אחר אישות?!

⁶ mentioned in the beginning, if in order to dissolve the marriage no מיאון or גט is required it is not a marriage (and the קטנה cannot be called an אלמנה). However if one of them (even מיאון alone) is required to dissolve the marriage, we can consider her an אלמנה. See ד"ה אלא where תוספות states that by שידוך she requires מיאון according to שמואל, ועיי"ש. See TIE there footnote # 3.

⁷ If it is שידכו there is no requirement for מיאון, so she is not an אלמנה; by שידכו (where מיאון are required) it is like קידשה אביה, where he cannot sell her אחר אישות.

⁸ See 'Thinking it over'.

⁹ just told us that by שידכו it is as if קידשה אביה; where he cannot sell her afterwards.

¹⁰ See (the text by) footnote # 5.

¹¹ This קטנה was אביה without נתקדש שלא לדעת אביה. She leaves her husband with just מיאון. A קטנה who left her husband with מיאון is not אסורה לכהן; it is considered as if she was never married!

And one can say; that really it is a case of **לא שידכו**, but we are discussing a case where what happened was that she was not **ממאן**, but rather the husband divorced the **קטנה** -

דאמת הוא שנפסלת לכהן באותו גט כיתומה שהשיאוה אחיה ואמה¹² -

Where in truth she becomes invalid to marry a **כהן** because of that **גט**, just like an orphan girl whose brothers and/or mother married her off, in which case -

דאם מיאנה לא נפסלה לכהן ואם גרשה פסלה מן הכהונה -

That if she was **מיאנה**, she is not **פסולה** for a **כהן**, but if that husband divorced her, he invalidated her from **כהונה**, and the same is by a **לדעת אביה** -

אבל ודאי פשיטא דלא בעי אלא מיאון:

But it is certainly obvious that she only requires **מיאון** (both by a **יתומה שהשיאוה אחיה** and) by a **לדעת אביה** according to **שמואל** in a case where **לא שידכו**, therefore there is no question from **לכה"ג** (and also no question from **הדיוט**) according to **שמואל**.

Summary

שידך (where **מיאון** is required) is the equivalent of **קידשה אביה**, which will prohibit him from selling her **לשפחות**. **שמואל** will explain the case of **לכה"ג** by **לא שידכו** (she is called an **אלמנה** because **מיאון** is required); the case of **הדיוט** is where her husband gave her a **גט** which invalidates her for **כהונה** (even though had she been **ממאן** she would be **לכהונה**).

Thinking it over

1. **גרשה לכהן** from the case of **ר' שמואל** asks that there is a question 'even' on **שמואל**.¹³ The language 'even' (**אפילו**), indicates that this question certainly applies to **הדיוט**. What would the question be on **עולא** (by **לא שידכו**, where **עולא** does not require even **מיאון**)?

2. Would this **קטנה** (who received a **גט**) also require **מיאון**, and if so how is she a **גרשה**, since **מיאון** eradicates the marriage retroactively?!¹⁴

¹² A **קטנה** from her father cannot become married **התורה** (only her father can marry her while she is a **קטנה**). However the **חכמים** instituted that her brothers and mother can be **מקדש** her. However she has the right to be **ממאן** as long as she is a **קטנה**.

¹³ See footnote # 8.

¹⁴ See # 27. **אוצר מפרשי התלמוד**.