

על מנת שלא תלכי לבית אביך לעולם אין זה גט – With the stipulation that you should never go to your father's house; it is not a גט

OVERVIEW

The ברייתא teaches that if a man divorces his wife with a restricting stipulation; the גט will be valid if the restriction is limited to a certain period. However if the restriction extends indefinitely, then the divorce is voided, since she is tied to him and not completely separated from him. The example the ברייתא gives is if he stipulates that she can never return to her 'father's house'. תוספות explains why this is considered a limitless restriction, when there seems to be an obvious limit.

פירש בקונטרס¹ שכל ימיה נאגדת לקיים תנאי זה מחמתו² –

explained the reason it is not a גט, because for her whole life she will be tied up to fulfill this stipulation on account of him.

תוספות asks:

ואם תאמר אמאי לא אמר דהוי גט –

And if you will say; why did not the ברייתא rule that in this case it is a גט - שהרי אם מת אביה³ יכולה היא ליכנס לבית ושוב אינה נאגדת בו –
For if her father dies she may enter the house, and consequently is not tied up by her husband; this should render it a proper גט –

תוספות will prove his contention that after her father's death she may enter the house:

דלאחר מיתת אביה לא חשיב בית אביה –

Because after her father's death it is not considered her father's house - כדאמרין בנדרים (דף מו,א) קונם לביתך שאיני נכנס מת או מכרו מותר –

As the גמרא rules in נדרים; if one says 'I take a vow that I will not enter into your house'; if the owner of the house dies or sold the house, it

¹ Were it not for פירש"י we could explain the reason she is not מגורשת is because the stipulation stated that the restriction is for ever. Since the restriction is for ever, then even though if her father died, practically the restriction will not prevail since there is no 'father's house'; nevertheless his restriction remains binding 'in principle', that she may not enter 'her father's house', regardless whether there is or there isn't a 'father's house'. However according to רש"י that the גט is voided because practically she is restricted from visiting her father house for ever (as רש"י states זה תנאי לקיים, נאגדת תנאי זה), therefore תוספות asks that she is not restricted 'practically' from visiting her 'father's house' for ever.

² She is not completely divorced from her husband, since he is preventing her from going to her father's house. This indicates that he controls her somewhat.

³ See 'Thinking it over' # 1.

is permitted for him to enter the house. This indicates that it is considered 'your house' only as long as you live or own it. The question is since eventually, when her father dies she will be permitted to enter her father's house, why does this stipulation void the גט.

answers: תוספות

ויש לומר דבית אביה קרוים כל יוצאי חלציו של אביה אף על גב שמת –

And one can say; that the phrase 'her father's house' (does not refer specifically to the house owned by her father, but rather) **all descendants of the father** are included in the term בית אביה, **even though the father died.** Hence she will be prohibited from visiting her 'family'⁴ even after her father's death.

תוספות will now prove that בית אביה means her family, and not only her father:

כדכתיב (בראשית לח^ה) גבי תמר שבי אלמנה בית אביך –

As it is written concerning תמר, that יהודה told her, 'settle down as a widow in your father's house' -

אף על פי שמת אביה כדמוכחי קראי⁶:

Even though her father already died, as is evident from the פסוקים, nevertheless יהודה referred to it as בית אביך.

SUMMARY

The term בית אביך means the family's house (not [only] the father's house).

THINKING IT OVER

1. Why does not תוספות discuss the possibility of the father selling the house?⁷
2. Does תוספות mean that יוצאי חלציו are called בית אביה regarding visiting her father's house only, or regarding visiting the houses of all his חלציו?

⁴ See 'Thinking it over' # 2.

⁵ פסוק יא.

⁶ שם (בן נח) (ר' אפרים מקשאה) states (in the name of רש"י) that תמר was the daughter of נח. This episode took place close to six hundred years after the מבול, while שם died some five hundred years after the מבול (שם died when יעקב was 50; יעקב married when he was 84).

⁷ See סוכ"ד נח"מ and סוכ"ד נח"מ.