

## רב יוסף אמר צריכי שומא – And ר"י said, they require assessment

### OVERVIEW

The גמרא cites the case of a person who was מקדש a woman with שיראי (silk; which was worth [more than] a פרוטה). There is a dispute between רבה who maintains that she is מקודשת even if the value of the שיראי was not assessed, and רב יוסף who requires that its value be assessed in order for the קידושין to be valid. There is an opinion that if the man said to the woman I am giving you this שיראי as is, for your קידושין (and he did not state a price how much they are worth), then רב יוסף agree that she is מקודשת without requiring an assessment. They only argue in a case where he told her that this שיראי are worth fifty זוז and it turned out eventually that they were worth fifty זוז, however there was no assessment (before the קידושין), in which case רבה maintains that she is מקודשת and רב יוסף maintains that she is not מקודשת. There is a different view that even if he gave it to her as is, nevertheless רבה and רב יוסף are in disagreement whether or not she is מקודשת. Our תוספות first qualifies when this assessment is to take place (according to רב יוסף). Then גמרא cites and resolves a seeming contradiction to our גמרא.

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 - צריכי שומא notes that the statement תוספות

קודם קידושין קאמר כדפירש בקונטרס<sup>1</sup> –

**Means that שומא is required before the קידושין, as רש"י explained.**

Based on the aforementioned, תוספות asks:

ותימה דלקמן פרק ב' (דף מח,א) תניא גבי התקדשי לי בשטר חוב<sup>2</sup> –

**And it is astounding! For later in the second פרק we learnt in a ברייתא concerning a case where one said to a woman become מקדושת to me with a**

<sup>1</sup> קידושין, וכיון שלא שמאום תחלה אינה מקודשת רש"י states that where בד"ה צריכי<sup>1</sup> for what would be the מחלוקת between רב יוסף and רבה according to the גמרא, where they argue in a case of (קידושין) ([at least] after the שומא). The only way we know that שווי חמשין is if there was שומא. דאמר חמשין ושווי חמשין! קידושין! If קידושין would mean (even) after the שומא, then what is the מחלוקת? There was שומא after the קידושין! In addition according to the גמרא that לישנא בתרא רב יוסף maintains that שוה כסף must also be קיין; it is obvious that the שומא must be before the קידושין; otherwise it would not be קיין.

<sup>2</sup> See the גמרא and רש"י there (ד"ה התקדשי) that the גירסא is בשטר (and not חוב). The ב"ח and the מהרש"א here also delete the word חוב in this תוספות. The case in the ברייתא (as the גמרא explains it there) is that he was מקדש her with a שטר אירוסין, however it did not have חתימה (or it was written לשמה etc.), but there were מסירה עדי. According to ר"מ (who maintains כרתי) there is no שטר and therefore no קידושין; according to ר"א (who maintains כרתי) it is a שטר and she is מקודשת. The חכמים are uncertain whether עדי חתימה כרתי or עדי מסירה כרתי, therefore שמיין את הגייר and if שוה פרוטה then she is (ודאי) מקודשת.

ר' אלעזר (who maintains that she is מקודשת) and ר"מ (who maintains that she is not מקודשת); there is a dispute between them - (מקודשת she is not מקודשת) -

– **וחכמים אומרים שמין את הנייר אם יש בו שוה פרוטה מקודשת**<sup>3</sup> –

**And the חכמים who maintain that we assess the value of the paper upon which the שטר is written, and if the paper is worth a פרוטה she is מקודשת.** This concludes the citation of the ברייתא.

תוספות continues:

– **ומשמע שמין את הנייר אחר קידושין**<sup>4</sup> –

**And it seems that we assess the paper after the קידושין** to ascertain whether it is a שוה פרוטה or not -

– **ואף על גב דמתחלה שומת הנייר לא היתה ידועה** –

**And even though that initially** when the קידושין took place **the value of the paper is not known**, and nevertheless if (after the קידושין) it is found to be a שוה פרוטה, she is מקודשת. This (seemingly) contradicts the explanation of רש"י, that תוספות, that שומא is effective only if took place before the קידושין!

תוספות answers:

– **ויש לומר דלשינא דאמר בכל דהו כולי עלמא לא פליגי איירי דאמר לה כל דהו**<sup>5</sup> –

**And one can say; that according to the (first) view which maintains that** if the man said **כל דהו** **then there is no dispute**, and both רב ורב יוסף agree that שומא is not required and she is מקודשת (if there is a שוה פרוטה), then we can answer that the ברייתא is **discussing a case where he said to her 'כל דהו'** and therefore she is מקודשת because by כל דהו no שומא is required (before קידושין) -

– **ולשינא דבכל דהו נמי פליגי הכי קאמר** –

**And even according to the view that the dispute is even when he said כל דהו**; then we will be required to explain that the ברייתא **means thus** -

– **ואם רוצה לקדשה בשטר שמין את הנייר מתחילה אם יש בו שוה פרוטה מקודשת** –

**And if he wishes to be מקדש her with the שטר we must initially assess the paper and if it is worth a פרוטה she is מקודשת.** The phrase שמין את הנייר -

– **כלומר אם שמוהו תחילה** –

**means if they assessed it initially;** before the קידושין.

<sup>3</sup> However ר"מ would (seemingly) maintain that even if שמין את הנייר and it is a שוה פרוטה she will not be מקודשת, since her intention is to become מקודשת through שטר קנין and not through כסף קנין.

<sup>4</sup> תוספות assumes (in the question) that the שמין את הנייר takes place after the קידושין; for if we are evaluating the paper before the קידושין to ascertain that it is worth a פרוטה, this indicates that he intends to be מקדש her with the value of the paper, so why would ר"מ maintain that she is not מקודשת. Granted that it is not a valid שטר, but she is aware that he is being מקדש her with the value of the paper which is a שוה פרוטה.

<sup>5</sup> There is still a requirement to have the שומא (after the קידושין) since in the case of the שטר (as opposed to the case of שיראי) we are not certain (as of yet) whether the שטר is a שוה פרוטה. See 'Thinking it over'.

קידושין anticipates a difficulty; if it was assessed to be worth a פרוטה before the קידושין then why does מ"ר argue and maintain that she is not מקודשת? תוספות replies that indeed מ"ר would agree with the חכמים that if they were הנזיר before the קידושין, that she would be מקודשת; and when the חכמים voiced their opinion it was -

**לאפוקי<sup>6</sup> ממאן דאמר מקודשת אף על פי שאין בו שוה פרוטה מטעם שטר:**

**To exclude the view of ר"א who maintains that she is מקודשת even if there is no שוה פרוטה and maintain that she is מקודשת because it is a שטר.**

The חכמים disagree with this view, and contend that a woman cannot be מקודשת (ודאי) with this type of שטר, unless the paper is valued (before the קידושין) at a פרוטה or more.

## **SUMMARY**

According to יוסף the שומא must be done before the קידושין.

## **THINKING IT OVER**

1. When the גמרא mentions 'כל דהו', does it mean that he specifically said כל 'דהו', or as long as he was מקדש her with כסף שוה without mentioning an amount it is also considered דהו?<sup>7</sup>

2. תוספות assumes that if לא פליגי then in the case of שטר if he told her she would be מקודשת if it was realized later that the שטר is שוה פרוטה. Seemingly however this ruling that בכל דהו לא פליגי is only in the case of שיראי where it was certainly worth a פרוטה; however by the case of a שטר where we are not certain at the time of קידושין that the שטר is worth a פרוטה, who is to say that she is מקודשת? Perhaps she is not דעת and is not מקודשת?<sup>8</sup>

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<sup>6</sup> The חכמים, however, also disagree with מ"ר who maintains that כרתי and if it is not worth a פרוטה she is מקודשת, ודאי אינה מקודשת, however according to the חכמים who are מספקי להו whether חתימה or עדי מסירה, then if שוה פרוטה, she would be מקודשת.

<sup>7</sup> See נח"מ (בד"ה בא"ד איירי).

<sup>8</sup> See footnote # 123.