

הב אשקי ושדי אינה מקודשת –

‘Give, pour, or throw’; she is not

OVERVIEW

The גמרא originally cited three cases where the woman initially asked the man for a favor (to be given a string of beads, a cup of wine, or dates) and the man replied, will you become מקודשת to me if I give it to you, and she responded in a double term (הבא מיהבא, אשקויי אשקייין, שדי משדי) in the affirmative that he should give it to her, but she did not refer to the קידושין. The ruling was that this double expression indicates that she is not interested in the קידושין. The גמרא then queried what would be the ruling (in the same cases) if she would have said it in the singular (הב, אשקי, ושדי). The conclusion was that she is not מקודשת. Our תוספות distinguishes between these cases and the previous case of מנה לפלוני¹ where she is מקודשת.

תוספות asks:

ואם תאמר מי גרע² מתן מעות לפלוני³ דמקודשת כל שכן⁴ כשאומרת תן לי⁵ –

And if you will say; are these cases of הב אשקי ושדי inferior to the case of תן מנה לפלוני (even though the money is being given to a third party), then **certainly here where she says, ‘give it to me’**, that she should be מקודשת. Why does the גמרא rule that אינה מקודשת?

תוספות answers:

¹ תוספות ה,ב ד"ה תנם לאבא in (א,ז) (see however footnote # 3). See ‘Thinking it over’

² See thinking it over # 1.

³ Others (see footnote # 29) suggest that תוספות is referring (not to the גמרא on א,ז where she is מקודשת (even though she is מקודשת תנם לפלוני ע"מ שיקבלם לי where if she said לי תנם לפלוני ע"מ שיקבלם לי (א,ז) where she did not specifically state אך אני לך (ואקדש אני לך). This would resolve the question many ask, how can תוספות compare the case of (א,ז) where she concluded תן מנה לפלוני לך to our case of ה,ב where she is not saying אך אני לך. However תוספות question would be valid if תוספות is comparing our case to the case on ה,ב where she also did not say אך אני לך and nevertheless she is מקודשת even though the money is being given לפלוני, then certainly here where she is receiving the money that she should be מקודשת. Even though that on ה,ב she said ע"מ שיקבלם לי, nevertheless ע"מ שיקבלם לי is not as indicative that her intention is for קידושין as in our case where she requests that it be given to her.

⁴ See ‘Thinking it over’ # 1.

⁵ תוספות did differentiate (ה,ב) תנם לאבא (א,ז) between (א,ז) where she initiated the conversation, and תנם לאבא where he initiated the conversation and she said give it to someone else (therefore she is not מקודשת for we assume that she is mocking him). However here even though the man initiated the conversation, nevertheless since she said give it to me; we cannot (so readily) assume (as we did there) that she is mocking him. [If we assume the suggestion in footnote # 3, then in both cases (on ה,ב and here) he initiated the conversation (concerning the קידושין).]

ויש לומר דשאני הכא דמעיקרא היתה שואלת שלא בתורת קידושין –

And one can say; that here it is different from the case of לפלוני תן מעות, **for initially she was requesting** (הב אשקי ושדי the) **not within the scope of** קידושין, but rather she was merely asking for a favor -

ומשום הכי איכא למימר כשאומרת הב אדעתא דמעיקרא קאמרה:

So therefore we can surmise that when she responded to his suggestion of קידושין **and said ‘give’, she meant** that he should give it to her **as the original intent was** which is as a favor but not for קידושין. However by תן מעות לפלוני there is no initial conversation where she had other intentions, therefore we can assume that she is willing to accept it as כסף קידושין.

SUMMARY

The original intent clarifies the (ambiguous) subsequent statements.

THINKING IT OVER

1. תוספות begins his question by saying מי גרע⁶ (that our case is not inferior to the case of לפלוני תן מעות), indicating that the two cases are similar, but then תוספות concludes that וכ"ש⁷ that she should be מקודשת; indicating that our case is superior to the case of לפלוני תן מעות!⁸

2. Would there be a different ruling if instead of saying הב, she was merely silent?⁹

⁶ See footnote # 2.

⁷ See footnote # 4.

⁸ See א"ח footnote # 27.

⁹ See א"ח footnote # 30.