

was not unless the מחייב רבי – **לא מחייב רבי אלא ברשות היחיד מקורה**
was covered with a roof. רה"י

Overview

is only by a זרק מרה"ר לרה"ר ורה"י באמצע רבי מחייב דין of say that the רב ושמואל
because a 'מקום ד' is required Otherwise רבי agrees that he is פטור
for עקירה והנחה. The question is, how did רב ושמואל derive this, since in the
itself the idea of a מקורה רה"י is not mentioned at all. Is it something
that they were מקבל from a מסורה, or do they derive it from the reading of the
ברייתא itself?

רב ושמואל **It is the opinion of the רשב"א** – **נראה לרשב"א דמשמע ליה**
derived their דין, that מקורה רה"י אלא ברה"י מחייב רבי, from the manner in which the
ברייתא was presented in the מחלוקת

since it was not – **מדלא נקיט מרשות היחיד לרשות הרבים באמצע**
presented in a situation where the object was thrown רה"ר
באמצע, which is the way it should have been presented

as it was presented in the argument between
ר"ע ורבנן, which we had previously. Why do we change the situation? Therefore רב
רה"ר would not be מחייב in a situation where it passed over a רה"ר, because he does not agree with ר"ע concerning קלוטה רבי. only when it passes
over a רה"ר, where we can say that he is מחייב even though we do not hold of קלוטה. This
can only be, if he threw it into a מקורה רה"י, where רבי holds of the concept ביתא כמאן דמליא
דמי, so there was a proper 'מקום ד' עקירה והנחה מעל גבי מקום ד'. However in all other cases, i.e. in
any רה"ר or a מקורה רה"י שאינה מקורה רה"ר a regular 'מקום ד' is required for עקירה והנחה.

And concerning that which we have
learnt in מסכת גיטין פרק הזורק (דף עט,א ושם)

in the case of the משנה where the women was
standing on the roof

and he threw the גט to her on the roof etc. the משנה continues
that if the husband was on the roof and the woman was below in the courtyard, and he
threw the גט from the roof to the courtyard, the דין is that as soon as the גט clears the
airspace of the roof and enters the airspace of the courtyard, even before it lands, she is
considered divorced. The גמרא there asks how can she be divorced, the גט when it entered
the airspace of the חצר, was not 'protected' by the walls of the חצר¹. To which the גמרא
replies, that the walls of the חצר were so high that they extended above the walls of the
roof, so the גט was in the 'protective' walls of the חצר as soon as it left the roof.

The גמרא there continues - **וקאמר**

¹ Therefore we cannot be sure that it will remain in the חצר, it may be blown away by a wind, etc.

גט lands, **our משנה** - **כמאן כרבי**, **agrees with רבי**

קלוטה כמי שהונחה דמי - **who maintains דמי**, referring to our דין of רבי, where באמצע, and therefore she is divorced even before it actually landed².

We see that the גמרא in גיטין assumes that רבי is מחייב because of קלוטה and not because of דמי, which is in contradiction to what רב ושמואל say – therefore we are forced to say that the גמרא there –

does not agree with what רב ושמואל say here³ – **לא סברי דרב ושמואל הכא**

for they maintain the רבי was – **דאמרי דלא חייב רבי אלא ברשות היחיד מקורה** **only in a מקורה**, and therefore we cannot apply it to the case in גיטין where it was not a מקורה רה"י מקורה.

The question arises however, according to רב ושמואל who maintain that רבי does not say קלוטה, so why is the women divorced even before it landed? תוספות continues:

and according to רב ושמואל, we will have to explain⁴ that the reason why she is divorced, has nothing to do with, whether the גט, when it enters the airspace of the חצר, is considered as if it landed, for there is no requirement for the גט to land on the floor of the חצר,

rather what is required there, is that the גט be under her **protective** custody, and if the walls of the חצר extend above the walls of the roof, then as soon as the גט leaves the airspace of the roof, it is immediately in her protective airspace of the חצר, and therefore she is divorced.

according to משנה **there explains** the גמרא **as the** **כדמשני התם אליבא דרבנן**, who do not hold קלוטה, nevertheless the גמרא says that

you may say that the משנה goes even according to the **רבנן** **אפילו תימא רבנן** **when do the רבנן argue** with רבי, **only concerning שבת**, where a proper עקירה והנחה is required

but here by גט there is no requirement for a **protective custody**, and the הנחה, there is only a requirement that the גט be in her **protective custody**, and that condition was met, by the extended walls, therefore the רבנן agree that she is divorced.

Summary:

The ברייתא states that רב ושמואל were מדייק from the fact that the רשב"א stated the מחלוקת between רבי ורבנן in a case of באמצע ורה"י באמצע and not

² It would seem that the גמרא there originally held that there are two distinct requirements to be met; a) that the גט be in the protective custody of the women, that is accomplished by the extended walls of the חצר, and b) that the גט be at rest, which is accomplished by קלוטה.

³ See גיטין עט,א ד"ה כמאן

⁴ ר"ע דסבר קלוטה maintains that we cannot say that the משנה there is according to קלוטה, because then it would not be necessary for the courtyard walls to extend above the roof's walls. Therefore the question is according to רב ושמואל who maintain that רבי does not hold of קלוטה, according to who is the משנה. See 'Thinking it over' #3.

in a case of באמצע ר"ה"י ור"ה"י, that is to emphasize that רבי is מחייב only when there is a באמצע ר"ה"י, not a ר"ה"ר. The advantage of a ר"ה"י is that in the event of a מקורה ר"ה"י, we can say דמליא דמי. Only then does רבי not require a regular עקירה והנחה. In a regular ר"ה"י or in any ר"ה"ר, רבי will require a עקירה והנחה ע"ג מקום ד'.

The גמרא in גיטין argues with רב ושמואל. The גמרא there assumes that רבי holds of קלוטה, even if it is not a מקורה ר"ה"י. The woman is therefore considered divorced even before the גט landed, because קלוטה lets us consider the גט, as if it landed. רב ושמואל will maintain (like the רבנן, who argue with רבי by שבת), that for a גט to be valid there is no need for it to be at rest, only that it should be in the protective custody of the woman. This is accomplished by the walls of the חצר extending above the walls of the roof.

Thinking it over

1. What connection can be found between the רשב"א's statement and תוספות subsequent question?⁵
2. Why was גיטין in משנה concerned how רב ושמואל would explain the משנה, when the גמרא there explicitly says that the משנה can be understood even according to the רבנן who argue with רבי?
3. Why did not the גמרא in גיטין say that the משנה is according to ר"ע, who holds of קלוטה?⁶

⁵ See שבת של מי

⁶ See Footnote #4