

We already learnt regarding an heir

יורש תנינא –

OVERVIEW

פפא (רב זביד or) inferred from our משנה, which stated that if one bought a dovecote he may keep it there, that we (the בית דין) claim on behalf of a buyer or an heir. The גמרא asked, we already learnt this rule regarding a יורש in a משנה (so what is ר"פ (or ר"ז) teaching us?¹ clarifies the s'gמרא question.

responds to an anticipated difficulty:²

וסלקא דעתיה המקשה דמתניתין אשמעינן ביורש והוא הדין בלוקח³ -

And the questioner assumed that even though that the cited משנה is discussing a יורש, but presumably the same ruling applies to a לוקח (that he does not require a claim) -

ומיהו⁴ רב זביד דנקט נמי יורש אמתניתין דלקמן סמין -

However, ר"ז who also mentioned יורש (which does not appear in our משנה), he was depending on the משנה later, which the מקשן cited -

אבל מתניתין דהכא לא שמעינן מינה יורש⁵ מדאיצטריך מתניתין דלקמן:

However, from our משנה here we would not know that לירוש, since there is a necessity for the later משנה (regarding a יורש).

SUMMARY

The מקשן assumed that יורש ולוקח are similar however the (ור"ז) disagree.

THINKING IT OVER

Why indeed cannot we derive יורש from לוקח and vice versa?⁷

¹ The גמרא answered that ר"ז wanted (mainly) to teach us regarding a לוקח (which is what our משנה is discussing).

² What is the גמרא asking, יורש תנינא; however ר"ז is teaching us that we argue for a לוקח also, not only for a יורש?! In fact, this is what the גמרא answers (see footnote # 1); but why is there even a question?!

³ The מקשן assumed that the same logic that tells us לירוש, that same logic applies to a לוקח as well, so what is ר"ז teaching us regarding a לוקח, since we have a משנה that לירוש, the same applies to a לוקח.

⁴ The answer of the תרצן (see footnote # 1) must be that לוקח and יורש are two separate issues; the fact that טוענין, does not necessarily indicate that לוקח, therefore ר"ז wanted to infer that we are טוענין ללוקח as well. The question is that now that we are saying that יורש ולוקח are different and cannot be derived from each other, why did ר"ז infer from our משנה that לירוש, since our משנה is only discussing a לוקח and not a יורש.

⁵ תוספות may be rejecting the notion that perhaps ר"ז maintains (not like the מקשן [see footnote # 3]) that we cannot derive לוקח from the fact that לירוש, but the reverse is true that once we know לוקח, we certainly know that לירוש (see 'Thinking it over'), and not like תוס' stated that ר"ז knows לירוש from the other משנה.

⁶ If (as we wanted to maintain in footnote # 5) that we can derive לירוש from לוקח, why was there a need to write the משנה later that לירוש. This proves the neither can be derived from the other (see 'Thinking it over').

⁷ See משה.