

a גט -

אבל מאן דסבר⁵ שנים שהביאו גט צריכין על כרחך סבר לפי שאין בקיאין לשמה כרבה –
However, the one who maintains that two people who bring a גט are required to say בפנו"נ, perforce you must say that he maintains the reason for saying בפנו"נ is because רבה as אין בקיאין לשמה maintains -

דלרבה אפילו לא אמר זה בפני נכתב וזה בפני נחתם כשר כיון שאומרים שהבעל שלחם –
For according to רבא (that the reason for saying בפנו"נ is on account of קיום [that we are to certify that the husband sent this גט]), even if one (of them) did not say בפנו"נ and the other did not say בפנו"נ it is כשר, since they are saying the husband sent them to deliver this גט; it is a כשר, because -

דמה אילו יאמרו בפנינו גירשה –

For what would be if these two שלוחים would say, 'he divorced her in our presence' they would be believed (even if they had no גט), so certainly now when they present a גט and say the husband sent them to divorce her that they are believed.

concluded that this 'וכו' א"צ וכו' is even according to רבה (לאחר שלמדו) רבה, that when two שלוחים bring a גט they are not required to say בפנו"נ, merely that the husband sent them.

asks: תוספות

ואם תאמר ולרבא⁶ נמי דלמא בעלמא צריכין⁷ –

And if you will say; and according to [רבא] (רבא) also, perhaps generally two שלוחים who bring a גט are required to say בפנו"נ -

– והכא דכשר משום דחד מינייהו מסהיד אכתיבה וחד אחתימה⁸ –

And here (in our משנה) it is כשר because one of the שלוחים testifies on the writing (he said בפנו"נ) and one testified on the signatures (he said בפנו"ח), but if they merely said the husband sent us without saying בפנו"נ, it is not a כשר. –

⁵ This is referring to the לישנא אהרינא later on this עמוד.

⁶ The ולרבא is גירסא (ולרבא not). However from the תוה"ר it seems that the גירסא is ולרבא. The difficulty with the גירסא of רבא is how can תוספות asks that perhaps וכו' צריכין וכו' (according to רבא) when תוספות just concluded that according to רבא there can be no requirement of בפנו"נ by שהביאו שנים (and in addition the גמרא stated that the נפק"מ between רבא ורבא is by תרי בי תרי [see (however) תפא"י]). The difficulty with the גירסא of רבא is the word נמי which indicates that there is certainly a difficulty according to רבא (which would seem illogical); see רש"ש. The word נמי is explained to mean that since תוספות maintains that the אלמא ב' שהביאו וכו' רבא is *also* according to רבא (ולרבה נמי), the question is how do we infer that 'וכו' א"צ וכו' see גמ"מ.

⁷ (According to רבא) they would be required to say בפנו"נ to ascertain that it was prepared לשמה (but not for קיום, even if דרבא ליה, for since they are two שלוחים they can say גירשה). See footnote # 15.

⁸ תוספות is asking how did the גמרא surmise from the statement of רשב"י א"ר (who said that if [in the case of our משנה] they were both שלוחים it would be כשר) that two שלוחים are not required at all to say בפנו"נ?! Perhaps (at least) one must say בפנו"נ and one בפנו"ח as is the case in the משנה! See 'Thinking it over' # 1.

anticipates a possible resolution to his question: תוספות

ואין לומר דכיון דלא מסהיד אכוליה מילתא לא דייק⁹ –

And one cannot say that since he is not testifying for the entire גט, therefore he is not precise –

reject this reasoning (that when the שליח says only one (either בפנ"ח or בפנ"כ he is not דייק):
דהא תנן אחד אומר בפני נכתב ושנים אומרים בפנינו נחתם כשר –

For our משנה taught; one says בפנ"כ and two say בפנ"ח it is a כשר - גט
אלמא מהימן חד אף על גב דלא מסהיד אלא אכתיבה לחודא ולא אמרינן דלא דייק¹⁰ –

It is evident that one alone is believed even though he is testifying only for the כתיבה alone and we do not say he is not דייק. The question remains why do we assume that two שלוחים are not required to say בפנ"ח at all (according to רבה)!

answers: תוספות

ויש לומר דאם איתא דצריכין בעלמא גם כאן לא היה מועיל –

And one can say; that if the ruling would be that generally two שלוחים who bring a גט are required to say בפנ"ח, here too it would not be effective when one states בפנ"ח and the other states בפנ"כ -

דכיון שאין כאן אלא אחד שמעיד על החתימה לבד אתי לאיחלופי בקיום שטרות דעלמא –

For since there is only one person who is testifying only on the signature (that it was בפנ"ח), therefore if we would be מכשיר this קיום, it would come לאיחלופי בקיום
לשטרות דעלמא, for -

אף על גב דאידיך מעיד על הכתיבה מאחר דהאי דמסהיד אחתימה לא מסהיד אכתיבה¹¹ –

For even though the other שליח is testifying on the כתיבה (so seemingly there should be no concern of איחלופי), nevertheless since that the one who is testifying on the חתימה is not testifying on the כתיבה, there is the concern of איחלופי –

⁹ is proposing that when the entire קיום of the גט depends on the testimony of one individual, then he feels the responsibility and is very careful to truthfully testify בפנ"ח; however when he is sharing the responsibility with another, he is not that meticulous and even though he is saying בפנ"כ or בפנ"ח we are not sure that this is the case, Therefore it is as if no one is testifying בפנ"ח, so there is no difference whether they do not say בפנ"ח at all (only that הבעל שלחום) or whether between the two of them they say בפנ"ח (since their saying is not considered an acceptable testimony). If it is כשר in one it will be כשר in the other for they are equal.

¹⁰ Even though תוספות previously (הב') stated that according to רב חסדא the שליח is not מדייק if the entire testimony is not ע"י מתקיימת, nevertheless here it is different because he is saying כולו בפנ"כ (or בפנ"ח כולו) as opposed to there where he states חציו ובפנ"ח (בפנ"כ כולו). See מהרש"א (and גמ"מ).

¹¹ When the same שליח testifies on the כתיבה and on the חתימה (together), it is evident that this is not a regular קיום (since he is also required to say בפנ"כ), and there will be no איחלופי. However here where the person who is מקיים (by saying בפנ"ח) does not say בפנ"כ (but rather another person is saying it), people will assume that there are two different sets of testimonies, one for כתיבה and the other for קיום in which one person is sufficient and אחי לאיחלופי.

explains that this concern applies according to רבה as well:

– דרבה נמי אית ליה טעמא דאיחלופי¹² –

For רבה also agrees to the concern of איחלופי -

– דכיון דכבר תקנו בפני נכתב משום לשמה תקנו נמי דצריך לומר משום איחלופי –

For since the חכמים already instituted to say בפנ"כ because of לשמה, they also instituted that it is necessary to say בפנ"כ (even only) because of איחלופי -

– כדפרישית לעיל בפרק קמא (דף ה,א)¹³ –

As I explained this previously in the first פרק¹⁴.

anticipates the following difficulty:

– אף על פי שכיון שהם שנים אין צריכין להעיד משום קיום אלא משום לשמה¹⁵ –

Even though that since they are two שלוחים, there is no need to testify regarding קיום, rather only on account of לשמה –

responds:

– מכל מקום כיון דצריך מיהא עדות משום לשמה יסברו העולם דעדות זה משום קיום הוא –
Nevertheless since they need to testify (בפנ"ח) at least regarding לשמה, everyone will assume that this testimony of בפנ"ח is on account of קיום -

ואתי לאיחלופי משום¹⁶ קיום שטרות דעלמא:

And it may come that it will be confused with דעלמא קיום שטרות.

SUMMARY

can also maintain בפנו"נ גט א"צ לומר בפנו"נ רבה. If (according to רבה) two people are required to say בפנו"נ (because of לשמה) then if one says בפנ"נ and the other מתקן בפנ"כ חכמים were בפנ"ח, it will be a פסול גט since רבה also agrees that once the חכמים were בפנ"ח, it (also) needs to be said in order to prevent איחלופי.

THINKING IT OVER

1. initially claimed¹⁷ that perhaps by כשר only if one said בפנ"כ and the other בפנ"ח, otherwise it is פסול. If the reason it is כשר is because of their testimony of בפנו"נ then in the case of בפנ"כ and one

¹² See 'Thinking it over # 2.

¹³ See תוספות ד"ה אי הכי יכול (and in TIE footnote # 19).

¹⁴ Therefore we must say the reason it is כשר by בפנ"ח זה אומר בפנ"כ וזה אומר בפנ"ח is not because they are testifying בפנו"נ, but rather because גט א"צ לומר בפנו"נ.

¹⁵ See previous footnote # 7. How can there be a חשש of איחלופי since the בפנ"ח is only for לשמה (and not for קיום)?!

¹⁶ The יעב"ץ amends this to read בקיום שטרות (instead of שטרות משום קיום שטרות).

¹⁷ See footnote # 8.

(presumably the שליח¹⁸ says בפנ"ה, why is it פסול; there is the same testimony as in "האומר בפנ"ה וא"א, for here too we have שנים on the כתיבה (which is no less than "האומר בפנ"ה) and a שליח on the חתימה.¹⁹

2. רבה²⁰ states that the concern of איחלופי is also according to רבה. However רבה maintains that איחלופי of חשש is not effective by גט and therefore there is no חשש of איחלופי;²¹ how can רבה claim that there is the חשש of איחלופי according to רבה?!²²

¹⁸ If the שליח is not saying בפנ"ה, then how is ר"י מכשיר?

¹⁹ See אמ"ה # 47.

²⁰ See footnote # 12.

²¹ See the גמרא previously on א, ג (and תוספות there מאן ד"ה מאן).

²² See נח"מ.