

However by a חצר we – אבל בחצר לגזור משום חצרה הבאה לאחר מכאן – should make a decree because of her חצר which comes afterwards

OVERVIEW

The גמרא says that if רבא would have not taught us that the woman is מגורשת in the case where he granted her the חצר with the גט inside the חצר, we may have thought that she is not מגורשת out of concern that we may think that she is מגורשת even if the חצר was transferred to her later (not by the husband).¹ תוספות explains the need to mention חצר even though we mentioned עבד.

תוספות asks:

ואם תאמר והא שמעינן שפיר מעבד דלא גזרינן משום חצרה הבאה לאחר מכאן² –
And if you will say; but we have properly derived from the rule concerning an עבד that we do not make a decree (and invalidate that גט ביד העבד) because of חצרה הבאה לאחר מכאן, so why is it necessary to mention חצר?!

תוספות answers:

ויש לומר דבעבד ודאי לא גזרינן דאיירי בכפות ומילתא דלא שכיחא היא ולא גזרו בה רבנן:
And one can say that by an עבד we certainly are not גוזר because of חצרה הבאה, since by an עבד we are discussing a case where the עבד is tied up, which is something very unusual, and the חכמים made no גזירות by a מילתא דלא שכיחא, however a חצר is a מילתא דשכיחא, so we may have thought that she is not מגורשת (if he granted her the חצר) because of the גזירה of חצרה הבאה לאחר מכאן.

SUMMARY

There is more reason to be גוזר by חצר than by עבד (which is a שכיחא).

THINKING IT OVER

According to תוספות that by an עבד כפות there is no גזירה since it is a מילתא דלא שכיחא, how does the גמרא say that I would think that we should by גוזר by an עבד? ³ מילתא דלא שכיחא is a עבד כפות, if an עבד כפות is a שכיחא?!

¹ See רש"י ד"ה חצרה, that the husband placed the גט in someone else's חצר. Then the בעל החצר transferred ownership to the woman (with the גט still there). In that case she is not מגורשת since the גט did not come directly from the husband to her (there is no בידה).

² Seemingly by עבד there is the same concern that perhaps he will give the גט in the hand of someone else's עבד, and then the master will transfer the עבד to her. Since we are not concerned by עבד, why should we be concerned by חצר?

³ See מהר"ם שי"ף and מהר"ם נח"מ.