

A בס"ד

Intro

Today we will learn בע"ה of דף יז מסכת גיטין
Some of the topics we will learn about include.

The Mishnah's Halachah of

נכתב בלילה ונחתם ביום

כשר

If the **Gett** was written and dated at night, but signed on the next day, the **Gett** is valid, because Halachically it's the same day.

The Machlokes regarding

נכתב ביום ונחתם בלילה

If the **Gett** was written and dated during the day, but signed only at night, which is Halachically the next day, is the **Gett** כשר or not?

A

נכתב ביום
ונחתם ביום
*Written, dated,
and signed,*
IN ONE DAY

ביום ונחתם בלילה
Written and dated
DURING THE DAY
but signed only
AT NIGHT

B

The Machlokes רבי יוחנן and ריש לקיש regarding

מפני מה תיקנו זמן בגיטין

For what reason did the Chachamim initiate that the date must be included in the **Gett**, and therefore a מוקדם is פסול

רבי יוחנן אמר

משום בת אחותו

says that the Chachamim initiated זמן out of concern of a person married to his niece; and that if she was מזונה, he will attempt to save her from מיתה by giving her a **Gett** and claim that they were already divorced at the time of the זנות.

But now that the **Gett** must have a date it will be clear that the זנות preceded the **Gett**.

ריש לקיש אמר

משום פירות

says that the Chachamim initiated זמן to preserve the wife's profits. Since the husband owns the produce of the wife's property, he will continue to sell the produce even after they divorce, and claim that these were HIS פירות, because they were sold while they were still married.

But now that a **Gett** must have a זמן, the **Gett** is proof that these were HER פירות, because the **Gett** precedes the sale of the פירות.

The Gemara then explains the Machlokes of the תנא קמא and ריש לקיש according to רבי שמעון and רבי יוחנן respectively.

B

מפני מה תיקנו זמן בגיטין?

רש"ל אק"ל א"ר

משום
פירות

רבי יוחנן א"ר

משום
בת אחותו

1 So let's review ...

Zugt Di Mishnah

נכתב ביום ונחתם ביום

If a Gett was written, dated, and signed, in one day;

OR

בלילה ונחתם בלילה

The Gett was written, dated and signed in one night;

OR even

בלילה ונחתם ביום

The Gett was written and dated at night, but was signed the next day;

כשר

In all these cases, the Gett is valid, because, as Rashi explains

היינו חד יומא

ואין כאן גט מוקדם

The חתימה and כתיבה were in one day, since the day follows the night. Therefore, the date of the Gett does not precede the date of its completion.

1

משנה

בלילה ונחתם ביום	בלילה ונחתם בלילה	נכתב ביום ונחתם ביום
Written & dated AT NIGHT Signed the NEXT DAY	Written, dated and signed IN ONE NIGHT	Written, dated, and signed, IN ONE DAY

כשר

Because

היינו חד יומא ואין כאן גט מוקדם

The date of the Gett does not precede the date of its completion

2 However,

ביום ונחתם בלילה

If the Gett was written and dated during the day, but signed only at night;

פסול

The תנא קמא holds that the Gett is NOT valid, because מוקדם הוא

The חתימה and כתיבה were NOT in one day, since the night does not follow the day. Therefore, the זמן precedes the Gett's completion, and a גט מוקדם is פסול.

רבי שמעון

מכשיר

The Gett IS valid, because רבי שמעון holds that a גט מוקדם is כשר.

שהיה רבי שמעון אומר

כל הגיטין שנכתבו ביום ונחתמו בלילה פסולין

חוץ מגיטי נשים

As רבי שמעון says, that regarding other שטרות, if they were written during the day, but signed at night they are a שטר פסול, because, as Rashi explains;

דאתי למטרף לקוחות מיומא דכתיבה

ושלא כדן

The מלוה might later unjustly confiscate property from a buyer who bought it after the date it was written, but before the actual loan. The מלוה is not entitled to it, because the שיעבוד, the lien, only takes effect at the time of the loan.

However, רבי שמעון holds that a Gett is an exception, in that גט מוקדם כשר.

While the תנא קמא holds that גט מוקדם פסול.

2

ביום ונחתם בלילה

Written and dated
DURING THE DAY
but signed only
AT NIGHT

רבי שמעון
מכשיר

תנא קמא
פסול

שהיה רבי שמעון אומר
כל הגיטין שנכתבו ביום
ונחתמו בלילה פסולין
חוץ מגיטי נשים

גט מוקדם
פסול

גט מוקדם
כשר

דאתי למטרף לקוחות
מיומא דכתיבה
ושלא כדן

3 The Gemara proceeds to understand this Machlokes, and first explains the basic question;

מפני מה תיקנו זמן בגיטין

For what reason did the Chachamim initiate that the date must be included in a Gett, and therefore a גט מוקדם is פסול?

רבי יוחנן אמר

משום בת אחותו

says that the Chachamim initiated זמן out of concern of a person married to his niece; and that if she was מונה, he will attempt to save her from מיתה by giving her a Gett and claim that they were already divorced at the זנות.

But now that the Gett must have a date it will be clear that the זנות preceded the Gett.

ריש לקיש אמר

משום פירות

says that the Chachamim initiated זמן to preserve the wife's profits. Since the husband owns the produce of the wife's property, he will continue to sell the produce even after they divorce, and claim that these were HIS פירות, because they were sold while they were still married.

But now that a Gett must have a זמן, the Gett is proof that these were HER פירות, because the Gett precedes the sale of the פירות.

The Gemara explains that according to רבי יוחנן there is NO concern for פירות, because he holds

יש לבעל פירות עד שעת נתינה

The husband is entitled to the פירות until she actually receives the Gett. Therefore, the date in the Gett is NOT a proof regarding the פירות, because she must prove when the Gett was given, not when it was written.

While ריש לקיש holds

יש לבעל פירות עד שעת כתיבה

The husband is entitled to the פירות only until the Gett is written. Therefore, the Gett IS a proof regarding the פירות.

And according to ריש לקיש the זמן was not initiated because of possible זנות, because

זנות לא שכיחא

It is not common.

3

מפני מה תיקנו זמן בגיטין?

ריש לקיש אמר
משום פירות

He will continue to sell the produce even after the divorce and claim these were HIS because they were sold while they were still married



יש לבעל פירות עד שעת כתיבה



NO concern for זנות

Because

זנות לא שכיחא

רבי יוחנן אמר
משום בת אחותו

A person married to his niece; If she was מונה he will save her by giving her a Gett and claim they were already divorced at the זנות



NO concern for פירות:

Because he holds

יש לבעל פירות עד שעת נתינה

4 Now the Gemara explains that according to רבי יוחנן the Machlokes תנא קמא and רבי שמעון is as follows:
 The Tanna Kamma holds נכתב ביום ונחתם בלילה פסול
 And גט מוקדם פסול
 Because תיקנו זמן משום בת אחותו
 And there is still a concern that she might be מונה at night before the חתימה, and claim that they were already divorced, because the date of the day precedes the זנות.
 While רבי שמעון מכשיר
 And גט מוקדם כשר
 Because even according to רבי יוחנן, Rebbe Shimon holds תיקנו זמן משום פירות
 And רבי שמעון holds יש לבעל פירות עד שעת כתיבה
 The husband is entitled to the פירות only until the Gett is written; and if he sells some of the produce after כתיבה, she rightfully collects it from the buyers based on the זמן.

4 According to רבי יוחנן the Machlokes תנא קמא and רבי שמעון is as follows:

ביום ונחתם בלילה

<p>רבי שמעון מכשיר גט מוקדם כשר</p> <p>Because תיקנו זמן משום פירות</p> <p>יש לבעל פירות עד שעת כתיבה</p>	<p>תנא קמא פסול גט מוקדם פסול</p> <p>Because תיקנו זמן משום בת אחותו</p>
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5 However, according to ריש לקיש, both, רבי תנא קמא and רבי שמעון agree that תיקנו זמן משום פירות
 And פירי דמשעת כתיבה ועד שעת חתימה איכא בינייהו
 The Machlokes is merely at what point does the woman own the פירות:
 The תנא קמא maintains גט מוקדם פסול
 Because he holds משעת חתימה
 She owns the פירות only AFTER the Gett is signed. Therefore, there IS a concern that she will use the Gett to claim the פירות from BEFORE חתימה that actually belong to her husband.
 While רבי שמעון maintains גט מוקדם כשר
 Because he holds משעת כתיבה
 She owns the פירות from when the Gett is written, and she may rightfully claim the פירות from before חתימה, because they ARE her פירות.
 =====

5 According to ריש לקיש both agree that תיקנו זמן משום פירות

פירי דמשעת כתיבה ועד שעת חתימה איכא בינייהו

<p>רבי שמעון מכשיר גט מוקדם כשר</p> <p>משעת כתיבה</p>	<p>תנא קמא פסול גט מוקדם פסול</p> <p>משעת חתימה</p>
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6 The Gemara continues:

כתוב בו שבוע
שנה
חדש
שבת
כשר

If the זמן does NOT include the יום, the day, but rather only the Shmittah cycle, the year, the month or the week, the

Gett is still כשר, because

אהנו לשבוע דקמיה
ולשבוע דבתריה

Regarding זנות אחותו, the Gett is a proof for a זנות that precedes the Shmittah cycle etc., even though it is NOT a proof for a זנות during the current cycle, as the יום is a proof for only a זנות that precedes the יום, but not for during the actual יום.

And regarding פירות, the Gett is a proof for the פירות that follow the Shmittah cycle etc, as the יום is a proof for only פירות after the יום, but not for during the יום.

6

The Gemara continues...

כתוב בו

שבוע - שנה - חדש - שבת

But does NOT include the יום

כשר

Because

אהנו לשבוע

דקמיה

ולשבוע

דבתריה

Regarding
בת אחותו

the Gett is a proof
for the זנות
that follow the
Shmittah cycle etc
as the יום is a proof
for only זנות
after the יום,
but not for
during the יום

Regarding
פירות

the Gett is a proof
for a זנות
that precedes
the Shmittah cycle etc.
as the יום is a proof
for only a זנות
that precedes the יום
but not for during
the actual יום