

Bava Basra – Simanim

דף קכח – Daf 128

פרק ח – יש נוהלין

1. Giving testimony after becoming blind

This Daf quotes seven rulings sent by Rebbe Abba to Rav Yosef bar Chama. He ruled that if one knew the boundaries of someone's land, but became blind, he cannot testify, since he can no longer see the boundaries. Shmuel disagrees, because he can precisely describe the boundaries using identifying marks from surrounding fields. Shmuel agrees he cannot testify about a garment, but Rav Sheishess said he can precisely describe its measurements. Rav Sheishess agrees he cannot testify about a metal bar, but Rav Pappa said he can accurately describe its weight. However, a Baraisa proves a blind person is always disqualified: It states that if one became related through marriage after witnessing information, or became a *חרש*, or blind, or a *שוטה*, he is disqualified from testifying. If the disqualifying factor disappeared before the testimony, he may testify. The Baraisa concludes with a general rule: *כל שתחלתו או סופו בפסלות פסול* – any testimony whose beginning (i.e., the witnessing), or end (i.e., the delivery of testimony) was in a disqualified state is invalid. If he was qualified both at the beginning and the end, the testimony is valid. This apparently superfluous rule teaches that a blind man may never testify.

2. One who says his wife should receive a share in his estate

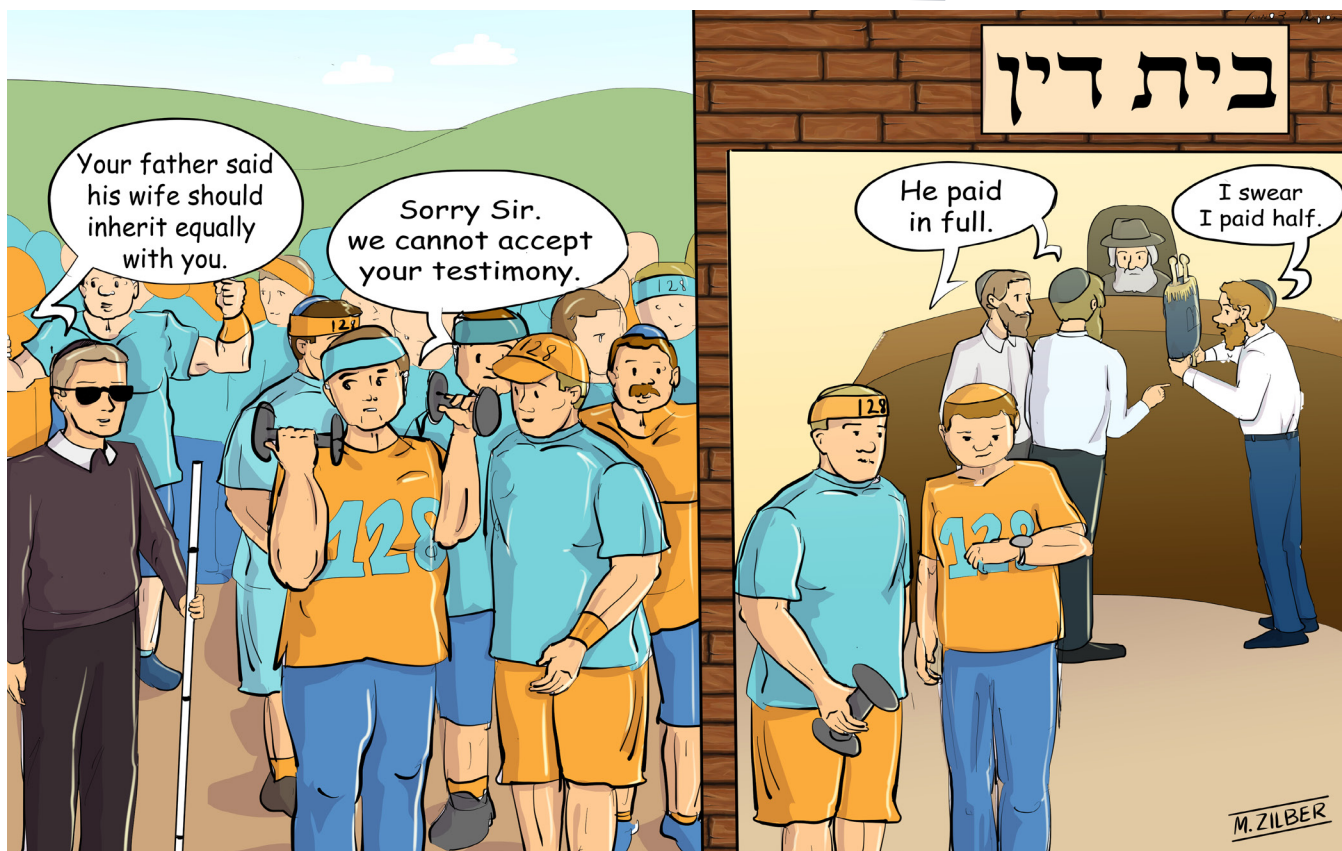
Rebbe Abba sent to Rav Yosef bar Chama: If one says, "תטול אשתי כאחד מן הבנים" – "My wife should take a share in my estate like one of [my] sons," – *she takes a share like one of the sons*. This directive was either given by a *שכיב מרע* – *gravely ill person*, whose verbal instructions can transfer property, or the transfer was effected through a *kinyan*. Rava clarified: *ובנכסים של עכשיו* – this gift only applies to *properties* he owns *now*, at the time of his instructions. The Rashbam explains that even according to the opinion that one can transfer future property, he must explicitly say so. Rava also said: *ובבנים הבאים לאחר מכן* – the share is calculated based on *the sons who come into existence after* [the instructions], like an heir would. Thus, if he has more sons in the interim (or if any sons die), her share will change accordingly.

3. A borrower says he paid half a loan in a שטר, and witnesses testify he paid it fully

Rebbe Abba sent to Rav Yosef bar Chama: If a lender withdraws a loan document against his friend, saying he was not paid, and the borrower says he paid half, and then witnesses testify he paid it fully, *הרי זה גובה מחצה מנכסים בני נשבע* – *this borrower swears that he paid half* (like an ordinary partial admission), *ובני חורין* – *and [the lender] collects half from [the borrower's own] properties*, based on the borrower's admission. He cannot collect from properties the borrower sold to others, because they can say, *אנן* – "We rely on the witnesses, who said the loan was paid in full." Rebbe Abba added that even according to Rebbe Akiva, who exempts someone from swearing when he admitted owing more than he had to (like a *"משיב אבידה"* – *one who returns a lost object*), here, the borrower must swear, because *היכא דאיכא עדים* – *where there are witnesses*, *אירתותי אירתת* – [the borrower] may have been *afraid* they would testify to the lender's benefit, and therefore he partially admitted (and not voluntarily). Although Mar bar Rav Ashi objects to this point, the *halachah* follows Rebbe Abba.

Siman – One hundred strong men

The one hundred strongmen who **refused to accept testimony from a blind man, that their father said his wife should receive an equal portion in their inheritance**, went to Beis Din where they waited in line behind a man swearing that he paid half, even though *eidim* testified that he had paid in full.



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3 things to remember

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2. One who says his wife should receive a share in his estate
3. A borrower says he paid half a loan in a שטר, and witnesses testify he paid it fully

