

שבת קודש פרשת חקת | מסכת כתובות דף צ"ו

לע"נ פרידא בת שלום

INSIGHTS FROM OUR CHABUROS

The widow should not specify her intent

רבי יוסי אומר מוכרת וכותבת סתם וכן כחה יפה

R' Yose suggests that the widow should sell the property of her departed husband to raise money for her needs, but that she should not record the specific reason for the collection. Rashi explains that by not specifying the nature of why she is collecting, she can later maneuver into a legal position of best advantage. If she writes that the sale was in order to collect her kesubah, when she later comes to collect money for her sustenance (מזונות) she might fail to collect. If there are no assets of the husband remaining with the orphans, the rule is that funds for sustenance cannot be collected from property that was sold (משועבדים) However, now that she will not state that the previous collection was for her kesubah, she can claim that what she has already collected was for the sustenance, and that she is now coming to collect her kesubah. The kesubah can be collected from משועבדים. Therefore, by not specifying her intent, she can now present the claim that is to her best advantage in terms of collecting.

R' Yose recommends this approach to provide an advantage for the widow, although it seems to be designed in order to allow her to misrepresent what her previous intent actually was. She will say that she collected for her sustenance when, in truth, she collected kesubah. Tosafos (אין סבר ד"ה ור יוסי סבר ד"ה) explains why this is not considered lying. The reason the woman cannot collect for her מזונות from the purchased properties is only because the necessary funds represent a sum that is unspecified (אין להם קצבה). In our situation, the buyers in any case should have had to leave enough property with the estate at least to pay for the woman's kesubah. Now that the buyers acted irresponsibly by not leaving enough funds with the orphans to even pay for the kesubah, they are subject to forfeiting the land they purchased to pay the woman what is due to her.

Tosafos (also Ramban and רבינו קרקש) explain that the יפוי כח of the widow is not vis-à-vis the buyers, but rather in regard to the orphans. The Gemara (עמוד א) taught that after a woman consumes מזונות, she forgoes her right to collect from them if she does not claim reimbursement from the orphans for a year or two. If a year had already past, the deadline will pass soon, unless she can claim that her selling of the property was for sustenance. In this way, she can show that she did pursue collection of the funds for her food, and her window of opportunity to get reimbursed will not expire.

POINT TO PONDER

The Gemara says that a אלמנה who didn't ask for מזונות for 2 or 3 years after her husband died, loses her מזונות. She only loses the מזונות for the past but not for the future. Why would there be a difference? If not asking is considered forfeiture.

Response to last week's Point to Ponder:

The Mishna says that if the first wife writes to a purchaser אין לי עמך then the second wife collects from the לוקח and the first wife collects from the second wife. Since the second wife is also owed her כתובה why don't we say ותפסה אם קדמה ותפסה like the מורא discussed on ע"א דף צ ע"ב? And if we hold מוציאין why didn't the מורא earlier cite our משנה?

The רמב"ן explains that the משנה is talking about a case where both widows came to די"ן at the same time, therefore it is not a case of "קדמה".

STORIES OF THE DAF | **The Rosh Yeshiva's Shoes**

"רבשיתא ירחי מי קא ילדה..."

Someone once asked Rav Chaim Kanievsky, zt"l, "In Kesuvos 96a it says that a Rebbe who prevents his student from serving him withholds kindness from the student. On the way back from the funeral of Rebbetzin Shach, a"h, the Rosh Yeshivah needed to remove his shoes as part of his obligations as a mourner. I bent down to help him, but he rejected my assistance despite this being obviously difficult for him. Why were so many gedolei Yisrael so set against accepting aid from anyone? This appears on the surface to be against the simple meaning of the Gemara and Shulchan Aruch?"

Rav Chaim Kanievsky answered, "You are correct. Many greats were exceedingly careful not to accept any help from anyone if this could be avoided in any way. My father, the Steipler, zt"l, was very fastidious in this regard. He would not even allow his grandchildren to assist him!" While verifying that the questioner's observation was correct, Rav Chaim avoided answering the question directly.

When Rav Wolbe, zt"l, was asked this same question he answered, "It is difficult for my own service of Hashem if people honor me, so I am an really an אדמו, I am caught under mitigating circumstances. That is why I cannot comply with that particular halacha in Shulchan Aruch. You can't do a chessed for a student at the expense of becoming arrogant!"

Perhaps this is why Rav Chaim did not answer the question directly, and he contented himself with merely saying that his father was very careful in this regard. He didn't want to speak poorly of his father.

HALACHA HIGHLIGHT

A widow who is nursing her infant daughter

אמר ר' יוסי בר חנינא כל מלאכות שהאשה עושה לבעלה אלמנה עושה ליורשים וכו'.

R' Yosi bar Chanina said: All tasks that a woman does for her husband, a widow does for the heirs etc.

There was once a man who died leaving behind a widow and three children. The two older children were adult males and the third child was a girl who was only three months old. After four months the sons paid the widow her kesubah so that she would no longer receive sustenance from the estate they inherited. The widow claimed that since she is no longer receiving sustenance from the orphans she should be paid to continue nursing the baby. The orphans disagreed and argued that she is obligated to nurse the child for twenty-four months and had no claim to reimbursement. The parties turned to Mahari ben Lev to decide which party was correct in their claim.

Mahari ben Lev¹ began by stating that at first glance it would appear that the orphans have the stronger claim. The reason is that there are a number of differences between a widow and a divorcée found in the Gemara related to nursing. One difference is that a divorcee cannot be compelled to nurse her baby, even if she will be reimbursed, if the child does not recognize her and will be able to nurse from a nursemaid². In contrast, our Gemara indicates that a widow is obligated to perform for the orphans all the tasks she was responsible to do for her husband, and one of those tasks was to nurse his children. A second difference is that a divorcée can collect compensation for nursing if she is obligated to nurse because the child recognizes her and refuses to nurse from a nursemaid³. On the other hand, there is no source that indicates that a widow receives compensation for nursing. These, in addition to other sources, indicate that a widow is obligated to nurse under all conditions, and does not receive compensation for nursing, regardless of whether she has received payment for her kesubah or not.

Upon further review, however, this conclusion is incorrect. Magid Mishnah⁴, in fact, writes explicitly that a widow has the right to insist on compensation for nursing and the rationale, explains Mahari ben Lev, is that once the kesubah has been paid and she no longer receives funding for her sustenance, there is nothing that prevents her from being able to demand compensation since she is no longer financially tied to the orphans

1. שו"ת מהר"י בן לב ח"ב סי' ל"ב.
2. גמ' לעיל נט:
3. גמ' שם.
4. מגיד משנה פ"ח מהל' אישות ה"ו.

MUSSAR FROM THE DAF

Seize the Opportunity

אמר רבי חייא בר אבא אמר רבי יוחנן: כל המונע תלמידו מלשמשו – כאילו מונע ממנו חסד, שנאמר: "למס מרעהו חסד". רב נחמן בר יצחק אומר: אף פורק ממנו יראת שמים, שנאמר: "ויראת שדי יעזוב"

The Gemora teaches us that if a Rav prevents his student from his holding back chesed removing from the student yiras shamyim. Why is he holding him back chesed and yiras shamayim? Can't the talmid learn these concepts from studying mussar sefarim and Shas?

In the introduction to Alei Shor Chelek 1, Rav Wolbe explains how a person can learn Torah and do mitzvos, yet still be missing the whole essence of what we are supposed to be in this world. When a person learns Torah, one is primarily involving one's intellect. However, when one experiences someone who lives the Torah ideals, this experience is not something that one can describe in a sefer. It can only be understood by witnessing the life of a true Talmid Chacham. Rav Wolbe compares a person to a tall building with many floors. Most people live their lives on the bottom floor without even being aware that there were more floors to ascend to. When a person experiences a talmid chacham, they understand the potential a human being has and can see first hand the "many floors" of development that a person can grow into. Therefore, if the Rav prevents a talmid from his holding back chesed, he is denying him the ability to learn and experience what true chesed and yiras shamyim is really about - something he could never understand from simply reading a sefer.

Whenever a person has an opportunity to spend time privately with a talmid chacham, one should seize the opportunity to experience how the Torah and the middos can be expressed in a person.

PARSHA CONNECTION

In this week's daf the Gemara discusses מזונות which a אלמנה is entitled to receive from the estate. פרשת חקת deals with the מזונות including water which כלל ישראל received in the מדבר. The Gemara tells us that the מן was בזכות משה while the water was בזכות מרים. When מרים was נפטר, and בני ישראל didn't honor her properly, the water stopped and they complained to משה רבינו that they are going to die of thirst. Shortly after the water came back כלל ישראל sung the song about the well like we find in the בראשית שירים כרוה נדיבי העם במחקק במשענתם וממדבר מתנה: פרשה אור החיים הקודש asks why did they sing this song about the water, but didn't sing about the מן. Both were gifts given to them in the desert and sustained them for 40 years. Due to this question the אור החיים learns that this song is actually about the תורה which is compared to water. The difficulty with this understanding is that the פסוקים seem to only talk about water, and secondly why would they sing about the תורה now, approximately 40 years after they received the תורה? The יקר כלי יקר offers the following explanation to address all of these questions. The water was originally given to them בזכות מרים, but after her death, it came back בזכות משה like the Gemara says in תענית. זכות התורה of משה is the זכות התורה which refers to משה רבינו which is why the פסוק mentions במחקק which refers to משה רבינו. With this we understand that both are true, they sung about the water, but also about the תורה which is why the water well came back. They are not referring to receiving the תורה itself 40 years earlier, but rather the merit of the תורה which brought back the water.

For more points to ponder by Rabbi Yechiel Grunhaus, or insights by Rabbi Yitzchok Gutterman, please visit our website, dafaweek.org, or download the app

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