

## שאיני הכא שהרי כנסה ראשון –

**Here it is different, for the first one took her in**

### OVERVIEW

כנסה בחזקת בתולה ונמצאת בעולה (ברייטא רבה) that refuted the proof of רב אשי, for it is possible that generally she receives nothing, but here he was not מנה since she was already married. תוספות clarifies this rebuttal.

ואדעתא דבעולה נישאת<sup>1</sup> -

**And we assume that he married her knowing** that she is a בעולה and not a בתולה.

anticipates a difficulty: תוספות

ואף על גב דעדים מעידים שלא נבעלה –

**And even though that the witnesses testify that she is not a בעולה**, why should we assume that אדעתא דבעולה נישאת –

replies: תוספות

אינו סומך על זה<sup>2</sup> מאחר שהיו נישואין<sup>3</sup> וסבר דלשבחה<sup>4</sup> אומרים כן:

**He does not rely on the עדים** that she is a בתולה, since there was נישואין, and he assumes that when the עדים say that she is not a בעולה that is only in order to praise her, but not that it is the truth.

### SUMMARY

Once a woman is a נשואה, we assume that she is a בעולה even if עדים testify otherwise.

### THINKING IT OVER

Why should we assume that he does not rely on the עדים<sup>5</sup>, when we always rely on עדים and believe whatever they testify?!<sup>6</sup>

<sup>1</sup> Therefore there is no מקח טעות and the כתובה of a נשואה or a בעולה is a מנה.

<sup>2</sup> He either assumes they were not מדויק, or they were not telling the truth. See 'Thinking it over'.

<sup>3</sup> Marriage implicitly indicates that there was ביהא.

<sup>4</sup> The עדים wanted that she should get married so they said that she is a בתולה, for people prefer בתולות.

<sup>5</sup> See footnote # 2.

<sup>6</sup> See סוכ"ד אות א (שטמ"ק). See also רשב"א and שיטה ישנה.