

He agrees with רב המנונא

אית ליה דרב המנונא –

OVERVIEW

רב המנונא states that if a woman claims, in the presence of her husband, that she was divorced; she is believed, and permitted to remarry.¹ In our גמרא there is a dispute (between ר' אבין and ר' אושעיא) whether a woman may remain (re)married if עדי אישות came after she remarried (based on the פה of her testimony that א"א הייתי וגרושה אני). Our גמרא suggested initially that this dispute hinges on whether we agree with רב המנונא (that the woman is believed [and therefore תצא]); or not (תצא). Our תוספות questions (and explains) the relevancy of רב המנונא to our discussion.

anticipates a difficulty:

אף על גב דרב המנונא איירי בפניו² -

Even though רב המנונא is discussing a case where the wife is **in the presence** of her husband; it is in this situation that רב המנונא maintains that the woman is believed to claim גרשתני since she is in the presence of her husband. Seemingly this should have no bearing on our discussion here, where the husband is not present. Why does the גמרא associate this dispute with the ruling of רב המנונא?³

responds:

מכל מקום לענין ניסת ואחר כך באו עדים מהני שלא בפניו:

Nevertheless concerning a situation where she remarried and witnesses came afterward (and testified that she was once married) the ruling of רב המנונא **would apply even not in the presence** of the husband. If we maintain as רב המנונא does, that a woman is believed to tell her husband in his presence that she is divorced, and we permit her to remarry (based on her pronouncement [alone]), then we will also maintain that if she already remarried and then עדים came, her original pronouncement should suffice⁴ to permit her to remain married.⁵

¹ She would not have the audacity to declare in his presence that he divorced her, if it were not true.

² See 'Thinking it over'.

³ Even if we agree with רב המנונא, the woman still may not be permitted to remain remarried, for in this case she did not testify בעלה בפני.

⁴ It would seem that her נאמנות (in a case where she says לבעלה גרשתני) is not based solely on the חזקה of אין אשה מעיזה פניה בפני בעלה; but rather that this חזקה strengthens her טענה of גרשתני to the extent that she can marry לכתחלה. However even without the חזקה (as in our case where it is שלא בפניו), she retains sufficient נאמנות when she says גרושה אני (based on her original שאסר) to remain married בדיעבד. A lesser נאמנות is required for a תצא בדיעבד than for a תצא לכתחלה. [Alternately, the חזקה of אין אשה מעיזה חזקה (even if it is not בפני בעלה) is sufficient to weaken the חזקה א"א which the עדים seek to impose. Her [דאי בעי שתיק] allows

SUMMARY

The ruling of רב המנונא (אשה נאמנת לומר גרשתני) can also apply in a case of נשאת ואח"כ באו, to the extent that she may remain married (if שלא בפניו). (עדים).

THINKING IT OVER

בפניו⁶ maintains in his question, that the ruling of רב המנונא is only תוספות. However our גמרא concludes that one מ"ד maintains that רב המנונא is also discussing a case of שלא בפניו!⁷

her to remain married since there is no valid א"א חזקה. See תשלט- (תשמב) for a detailed discussion]

⁵ However if we disagree with רב המנונא, and a woman is never believed to claim that she is divorced, even in the presence of her husband (except when there is a valid שאסר הפה), then even if she is already remarried, but since עדים came (and weakened her שאסר הפה), she must be תצא. For her pronouncement without the aid of a valid שאסר הפה, is meaningless (for we see that even the חזקה cannot sustain her claim).

⁶ See footnote # 2.

⁷ See מהרש"א.