

מאן דמתני לה ארישא כל שכן אסיפא –

He, who applies it to the רישא, certainly applies it to the סיפא

OVERVIEW

The משנה stated two cases, one by an איש and one by a שבויה, that if the woman testified (and there were no עדים) that she was married and divorced, or נשבית וטהורה she is believed [but not if there are עדים that she was married or נשבית]. The משנה concludes that if the עדים came after she remarried, the rule is תצא. It is not clear if this rule applies to both cases (of א"א and שבויה or not). The גמרא states that whoever maintains that this rule of תצא applies by א"א will certainly maintain that it applies by שבויה, for by a שבויה (where the entire prohibition of a שבויה to a כהן is כהן), the חכמים were lenient. תוספות challenges this assumption that the ruling of אם משנשאת באו applies to the סיפא (of שבויה) if it applies to the רישא (of א"א). Perhaps in the case of שבויה we are even more lenient than by א"א.

תוספות asks:

ואם תאמר מנא ליה -

And if you will ask, how does the גמרא assume that מאן דמתני ארישא כ"ש אסיפא - דלמא אסיפא לא מצי קאי¹ דאפילו באו עדים ואחר כך נשאת² לא תצא³ -

Perhaps the rule of תצא, אם משנשאת באו עדים לא תצא, cannot apply in the סיפא, for in the case of נשבית the rule may be that even if the עדים came first and then she married, nevertheless she is not required to leave her husband (the שבויה הקילו, כהן), for by שבויה הקילו.

תוספות answers:

ולמאי דמפרש בסמוך⁴ לא ניסת ניסת ממש אתי שפיר -

And according to what the גמרא will shortly explain that the term ניסת (in the ruling of אם משנשאת באו עדים וכו') does not actually mean ניסת (but rather (even if) just permitted her to [re]marry), then it is properly understood. There is no difference between שבויה and גרושה; in both cases if התירוה לינשא, she may

¹ The inference of תצא לא תצא is that if נשאת תצא, and by a שבויה it is not (necessarily) so.

² They came after she testified אני וטהורה and נשבית בי"ד accepted her testimony (based on the פה שאסר).

³ See 'thinking it over' # 2.

⁴ On this עמוד; עמוד וכו'; עמוד. See 'Thinking it over' # 3.

marry (even if באו עדים before she [re]marries)⁵, and if לא התירוה לינשא then the ruling is תצא in both cases.⁶

SUMMARY

If we assume that in a case of א"א וגרושה אני she is not permitted to remain married if she remarried after the עדי אישות came, we can still maintain that in a case of אני וטהורה נשביתי she may remain married (to the כהן) even if she married after the עדי שבויה came. However if we maintain that by א"א וגרושה אני she may remarry even after the עדים came (as long as להתיר להנשא), then the same rule would apply to אני וטהורה נשביתי.

THINKING IT OVER

1. What did תוספות assume (in his question) would be the view of the one who is מתני לה אסיפא; what would be the דין in the רישא?⁷
2. In his question, תוספות asserts that it is possible that the דמתני ארישא is not מאן דמתני ארישא (because in the סיפא even if תצא לא נשאת ואח"כ נשאת לא תצא).⁸ If that is so, then why did the משנה write the ruling of לא משנשאת באו עדים לא ואם משנשאת באו עדים לא? The משנה should have written it after the רישא, before the סיפא!⁹
3. תוספות clearly states that לפי מה דמפרש בסמוך there is no question,¹⁰ so what is תוספות question?¹¹

⁵ See following תוספות ד"ה לא תצא.

⁶ It is self-understood that if the עדי שבויה came, before ב"ד accepted her testimony to permit her to remarry, that she is אסור to remarry, and if she did so, the rule would be תצא.

⁷ See מהרש"א (הארוך).

⁸ See footnote # 3.

⁹ See רש"ש.

¹⁰ See footnote # 4.

¹¹ See פנ"י.