

והאמר רבי יוחנן דברי הכל אין ערער כולי –

However י"ר said, all agree there is no contesting, etc.

OVERVIEW

מעלה cited an unclear מחלוקת between ר"א ורשב"ג, as to when we are מכלול. The גמרא says that we cannot assume that the מחלוקת is in a case where an ע"א was already מערער on the כהונה status; for רבי יוחנן taught that everyone agrees אין ערער פחות משנים. Therefore if there would be merely an ערער דחד, all would agree that ע"א ע"פ ע"א. This statement of ר"י is mentioned several times in ש"ס; always in the form of a challenge: 'But ר"י maintains אין ערער פחות משנים'. It never says explicitly in what context ר"י made this statement.¹ Our תוספות will resolve this issue.

נראה לרבינו יצחק דרבי יוחנן עיקר דבריו² על משנתנו -

It is the view of the ר"י that the main statement of ר"י (that 'אין ערער פחות מב' was said regarding our משנה (of מעלין לכהונה -

ולהכי לא קא משני הכא הני מילי היכא דאיכא חזקה דכשרות כולי -

And therefore the גמרא did not answer here (in response to the challenge of חזקת ר"י אעפ"מ), **'when is this ruling of ר"י valid, only when there is a חזקת כשרות, etc.'**, however when there is no חזקת כשרות (as it may be in the case of our משנה), then perhaps even an ערער חזק is sufficient -

כדמשיני בפרק עשרה יוחסין³ (קדושין דף עג,ב) -

As the גמרא answered in פרק עשרה יוחסין. The reason is simply because when ר"י said אין משנה ערער פחות מב' he meant our משנה.⁴

תוספות asks:

וּאִם תֹּאמַר וְהוֹאִיל וְאִמְתַּנִּיתִין קֵאִי הִיכִי פִּרִיךְ מִיִּנְיָהּ הֵתָם⁵ וּבִפְרָק קִמָּא דְגִיטִין (דף ט, א) גְּבִי גֹט -

¹ See יוחנן who writes (regarding this statement of ר"י) that לא איתפרש היכא.

² It obviously applies to other situations as well, since the גמרא refers to this statement in various situations, nevertheless עיקר דבריו על משנתנו מחלוקת and therefore ר"ם says that דברי הכל אעפ"מ.

³ The *ברייטא* there states that the *חיה* (midwife) is not believed (regarding the status of the newborn) if there is an *ערער* on the status of the child. *הגמרא* there asks how can an *ערער* of one contradict the testimony of the *חיה*, when *ערער חד* (then *חיה* says *פחות משנים*) *הגמרא* answered that there is a difference whether there is a *חזקת כשרות* (then *חיה* is insufficient) or not. In the case of *באמנת חיה*, the infant never had a *חזקת כשרות*; therefore even an *ערער דחד* is sufficient.

⁴ will therefore assume that in our משנה of מעלין אין there is a כשרות (as the גמרא shortly concludes). This will avoid any discrepancy with the גמרא in קידושין (see previous footnote # 3). See 'Thinking it over' # 1.

⁵ See footnote # 3.

And if you will say; that since ר"י is referencing our משנה, how can the גמרא challenge from the ruling of ר"י, the ruling there in עשרה יוחסין regarding פרק, and the ruling in the first פרק of גיטין⁶ regarding מסכת -

דלמא הא דקאמר רבי יוחנן דלא מהני ערער דחד היינו דאיכא עד אחד דמכשר - Perhaps this which ר"י rules that ערער דחד is ineffective, that is only where there is one עד who certifies his status –

דקתני מעלין לכהונה על פי עד אחד -

As the משנה states, 'we elevate to כהונה based on one witness' indicating that there is an המכשיר עד, therefore to contradict this עד an ערער of two is required, however by גט חיה וגט where there is no substantiating עד,⁷ perhaps even an ערער דחד is valid (even in a case where there is a חזקת כשרות).⁸

answers: תוספות

ויש לומר דהש"ס ידע דרבי יוחנן אמסקנא דיבר -

And one can say; that the גמרא (which asked the question in גיטין) knew that ר"י (when he ruled מע"מ) was referring to the conclusion of the discussion -

דבתחלה היה קול ואחר כך בא עד אחד להכשירו ולהסיר הקול -

That initially there was publicity (that this person is a גרושה) and then an ע"א came to qualify him and to remove the קול -

ואתו בי תרי ואמרי דבן גרושה ובן חלוצה הוא דבכי האי גוונא אמר רבי יוחנן דבעינן שנים -

And two people came and claimed that he is a גרושה ובן חלוצה, and in such an instance ר"י maintains that two עדים are required to make the claim of בן גרושה, but one עד alone is insufficient. תוספות will now show that the ruling of ר"י is even when there is no המכשיר עד. Two עדים are required in this case -

אף על גב דהעד שהכשיר והקול כמאן דליתנהו דמי -

Even though that the המכשיר עד and the opposing קול are as if they do not exist; they cancel out each other (as תוספות will shortly explain); so there is no המכשיר עד for he is cancelled out by the הפוסל קול, and nevertheless two עדים are required to disqualify him. This proves that the ruling of ר"י is even when there is no המכשיר עד.

ע"א the קול cancels out the עד: תוספות explains now why we assume that

⁶ The משנה there states that if a גט is brought in א"י and there are עוררין then יתקיים בחותמיו. The גמרא asks, it cannot mean ערער דחד for ר"י maintains מע"מ, etc.

⁷ See 'Thinking it over' # 2.

⁸ If we would not assume that ר"י is referencing this משנה, it would be difficult to maintain that ר"י is discussing only a case where there is an המכשיר עד. It is not implied in his statement. However now that תוספות maintains that ר"י is referencing this משנה, and the משנה is discussing a case of עד המכשיר, then it is implicit that ר"י's ruling may apply only if there is an המכשיר עד.

שהרי העד גרוע מן הקול אי לאו משום חזקה דמסייע ליה לבטל הקול -

For the עד is inferior to the rumor (as תוספות will point out); if not for the חזקה, which assists the עד to nullify the קול. Now there is a חזקה; the father is מוחזק as a כהן, therefore even though there is a קול that the son is a גרושה, nevertheless the ע"א המכשיר is believed. However, we believe the ע"א in spite of the קול, only in combination with the original חזקה, which assists the ע"א and conflicts with the rumor. Were we to compare the ע"א against the קול without the aid of a חזקה, then the קול will be stronger than the ע"א.

שהרי הקול פוסל והעד אינו פוסל לרבי יוחנן:

for a קול, which claims that he is a גרושה בן will invalidate his כהונה, even against a כהן, however one עד, who claims that he is a גרושה בן, cannot invalidate the כהונה according to ר"י against a כשרות.⁹ This proves that a קול is stronger than an ע"א. It is only because the ע"א is assisted by the חזקת כשרות of the father in our case, that we validate the כהונה. The status of this כהן (after the קול and the עד המכשיר) is as it was originally, when we only knew of the חזקת כשרות of the father, without a קול and without an עד; for the קול and the עד cancel each other out.¹¹ It is at this point that ר"י insists that any new ערער must consist of two עדים. This proves that אין ערער פחות משנים is valid even if there is no עד המכשיר.

SUMMARY

We know that ר"י and רשב"ג are not discussing an ערער חד, since ר"י stated concerning their מחלוקת that אין ערער פחות משנים. This ruling of אעפ"מ applies (only) if there is a חזקת כשרות, even if there is no עד המכשיר; similar to the case of מעלין where the עד המכשיר and the קול cancel out each other.

THINKING IT OVER

⁹ This we can see from our גמרא; even though it was מוחזק באביו דכהן הוא, nevertheless when there was a קול of בן כהונה the כהונה was voided.

¹⁰ Seemingly תוספות derives this (that an ע"א cannot invalidate a חזקת כשרות) from ר"י, who states אין ערער פחות משנים. See מהרש"א and מהרש"ל, who question the validity of this assumption, that an ע"א cannot invalidate a חזקת כשרות. This is what תוספות is trying to prove, that (ר"י maintains that) an ע"א cannot be פוסל (even if there is no עד המכשיר), against a חזקת כשרות (it seems to be circular reasoning, for it is possible that an ע"א can be פוסל against a חזקת כשרות [and it is stronger than a קול] and the reason ר"י requires two עדים is because there is an עד המכשיר). The מהרש"ל explains that we derive this (that an ע"א cannot contest a חזקת כשרות) from the גמרא's answer in קידושין, that ר"י's rule is only when there is a חזקת כשרות. This teaches us that when there is a חזקת כשרות an ע"א cannot contest it (which makes him weaker than a קול). Our תוספות is (merely) explaining how the גמרא (there) come to the conclusion that ר"י requires two עדים, not on account of the contradicting ע"א, but rather on account of the חזקת כשרות. The explanation is that there is no עד המכשיר since he is cancelled by the קול. Alternately the מהרש"א explains that otherwise (if an ע"א can invalidate a חזקת כשרות), the גמרא could have said that an ע"א invalidated the חזקת כשרות (without resorting to a קול) and another עד subsequently came and was מכשיר, etc.

¹¹ Even though the קול is superior to the ע"א alone, nevertheless in combination with the חזקה, the קול (and the ע"א) cease[s] to function. Only the חזקת כשרות remains, which validates the כהונה.

1. אין מעלין לכהונה ע"פ ע"א of משנה ר' יוחנן assumes that according to תוספות. ¹² Why should ר' יוחנן assume that; perhaps there is a case where there is a חזקת כשרות. ¹³ חזקת כשרות in our משנה and the מחלוקת between ר"א ורשב"ג is whether an ערער חד is sufficient against an ע"א? ¹³

2. מ"ס קידושין (וגיטין) asks that we cannot compare the situation in מ"ס קידושין to the case of ר"י, since by ר"י there is an עד המכשיר. ¹⁴ Seemingly in מ"ס קידושין, there is also an מעלין; the עד המכשיר; זה כהן who claims חיה. Why is it any different than the case of מעלין לכהונה? ¹⁵

¹² See footnote # 4.

¹³ See פנ"י.

¹⁴ See footnote # 7. Generally in case where an ע"א is נאמן a woman is also נאמן.

¹⁵ See בית יעקב.