**מסכת בבא קמא-פרק א- מתיבתא דישיבת רבינו יצחק אלחנן- תשע"ח**

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**בהצלחה!**

**Sheet #4**

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| **Words & Background Concepts**  **Daf יא:**  **Intro:** The Gemara brings another statement from עולא בשא ר' אלעזר.  **Background**: In general, in a case where the לוה (borrower) died, the מלוה (lender) can not collect from the property of the יתומים (orphans) unless they have land but he can not collect מטלטלין (movable objects). The Gemara is going to discuss if the מלוה can collect עבדים which depends on whether they have the status of קרקע or מטלטלין?  1. **מיתמי**- from orphans  **2**. **גלימא**- cloack  3. **כתפיה**- shoulders  4. **אפותיקי**- apotiki. Rashi explains this is an acronym for אפה תהא קאי which means “you (the מלוה) will stand here”. In this situation, the לוה specifically designated certain property for the מלוה to collect from in a case where he can not pay him back with anything else.  **5. אית ליה קלא**- lit. “it has a voice” i.e it becomes public knowledge  **Questions to think about on יא.**   |  | | --- | | 1. Under which circumstances did רבא allow a מלוה to collect a עבד from יתמי?  2. What is the reason there is a difference b/t a שור and עבד in the case of an אפותיקי?  **Extra** **Iyun**: Is it always true you can collect the גלימא of the לוה? Tosafos d’h אפילו |   **Daf יב.**  1. **אשתמטין עולא**- עולא is avoiding me b/c he is afraid I will refute him  **2**. **ואגבו** **דייני** **דנהרדעא**- the judges in Nehardea collected עבדים from orphans  **3. מגבינן לכו לאפונדייכו-** I will confiscate your mansions  4. **פרוזבל**- A document that permits the collections of loans after Shemitah. The Torah says that all loans are canceled by שמיטה (Devarim 12:2) & it would be אסור to demand payment of a loan. Hillel saw that people stopped giving loans when the Shemitah year was approaching out of fear that that they would not get their money back because the debt would be canceled by שמיטה. Hillel therefore instituted the "Pruzbul" (from the Greek "Pruz" = benefit, "Buli" = for the rich. Pretty cool), creating a way to avoid having שמיטה cancel one's debts, as long as the לוה (borrower) owns land.  In a Pruzbul document, one files a contract with Beis Din, before the end of the Shemitah year, stating that he is placing all debts owed to him into the hands of the Beis Din to collect them for him. By doing this, the creditor will not violate the איסור of collecting loans when he collects the loan after Shemitah, a Pruzbul permits a person to collect a loan after Shemitah because the moment one allows Beis Din to collect his loans, it is as if they are already collected, and in his possession, immediately (since nothing can stop Beis Din from collecting the loan). This is also the reason the borrower must own land in order for Pruzbul to aloow the collection of the loan since it is only if he has land that Beis Din can easily collect the loan. If the borrower only has movable possessions, it is possible for him to prevent Beis Din from collecting them by hiding them from Beis Din. Therefore, they are not considered to have entered the creditor's possession until they are actually collected as payment. (Based on Rashi)  **5. מטלטלין נקנין עם הקרקע-** if one sells movable property (מטלטין) along with קרקע then once the buyer does a קנין on the land he can acquire the מטלטלין as well without needing to do a קנין on them.  6. **יתן להם אביהם מתנות רבות לכסף ולזהב ולמגדנות עם] ערי מצרות ביהודה"**"And their father gave them many gifts of silver and gold and of precious things, with fortified cities in Yehudah..." (Divrei ha'Yamim II 21:3). This pasuk is the source for the קנין אגב and t/f the קרקע must be similar to the land described in this pasuk (the ערי מצורות ביהודה) which do not move.  7. **ניידי**- move  8. **בעודן** **עליו**- while they are on the slave  **9. חצר מהלכת היא-** The קנין of חצר works only when the חצר is a stationary domain. If the חצר is a moving domain ("Chatzer Mehaleches" - lit. "a walking Chatzer"), then the Chatzer is not effective to make a Kinyan. Therefore, an object placed on a person's עבד cannot be acquired through a קנין חצר(even though the slave is considered the person's domain), because the slave is a moving חצר.  **10. כפות-** tied up  **Questions to Think About on Daf יב.**   |  | | --- | | 1. What was עולא’s view on collecting עבדים from יתומים? 2. What is a פרוזבול? 3. What is רב איקא בריה דרב אמי’s first resolution for the סתירה if עבדים are like קרקע or מטלטלין? 4. What is the 2nd resolution? (the איכא דאמרי) | |
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