

## מסכת גיטין • דף י"ד ע"ב

Elucidated Talmud • Statement and Proof • Navy &amp; Gold Edition

## THE SUGYA

We begin this section of the daf with a fascinating and haimish story involving Rabbi Achai, Rabbi Dostai bar Rabbi Yannai, and Rabbi Yosei bar Keifar. Sent to Neharde'a to retrieve a vessel, the agents faced a frightening situation when the local possessors demanded a formal act of acquisition to transfer liability. When Rabbi Yosei bar Keifar refused, he was physically tormented, leading to a dramatic dispute between the two agents that was ultimately brought before Rabbi Achai for a ruling on whether Rabbi Dostai acted correctly under the threat of duress.

Following this narrative, the Gemara transitions into a deep halachic analysis regarding the power of an agent. Specifically, the Sages analyze the legal implications of a sender telling an agent to "deliver" a gift of money to a recipient who subsequently dies before receiving it. The Gemara grapples with conflicting baraitos to determine whether the term "deliver" is legally equivalent to "acquire," exploring various distinctions such as whether the giver was healthy or on his deathbed, and who passed away first.

*All introductions, summaries, and contextual notes are the editor's commentary and are not part of the original text.*

## STATEMENT

אמר להו לרבי דוסתאי בר רבי ינאי ולרבי יוסי בר פיפר: פהדי דאתיתו, אתיוה ניהלי.

Rabbi Achai said to them, to Rabbi Dostai bar Rabbi Yannai and to Rabbi Yosei bar Keifar: When you come back from Nehardea, bring it to me — referring to a certain utensil he had left there.

## STATEMENT

אזול, יהביה ניהליה.

They went there, and the people holding the utensil gave it to them.

## STATEMENT

אמרי להו: נקני מינייכו;

After handing it over, those people said to them: Let us perform an act of acquisition from you to make you legally responsible for the utensil, so that you will bear the liability for any mishap until you deliver it to Rabbi Achai.

## STATEMENT

אמרי להו: לא.

The agents said to them: No, we do not wish to accept responsibility.

## STATEMENT

אמרי להו: אהדיה ניהלן.

Those people **said to them**: If so, **return it to us**, as we do not wish to part with it without being cleared of liability.

STATEMENT

רבי דוסתאי ברבי ינאי אמר להו: אין;

Rabbi Dostai bar Rabbi Yannai said to them: Yes, let us return it.

STATEMENT

רבי יוסי בר כפיר אמר להו: לא.

But Rabbi Yosei bar Keifar said to them: No, we will not return it, for you have already transferred ownership and cannot retract.

STATEMENT

הוּוּ קא מצערו ליה,

Those people **were causing him pain** by beating Rabbi Yosei bar Keifar to force him to return it.

STATEMENT

אמר ליה: חזי מר היכי קא עביד!

Rabbi Yosei bar Keifar said to him, to Rabbi Dostai: See, Master, what they are doing to me!

STATEMENT

אמר להו: טב רמו ליה.

Rabbi Dostai said to them, the attackers: Hit him well!

STATEMENT

כי אתו לגביה, אמר ליה: חזי מר, לא מיסתיה דלא סייעו, אלא אמר להו נמי "טב רמו ליה!"

When they came before Rabbi Achai, Rabbi Yosei bar Keifar said to him: See, Master, not only was it not enough that Rabbi Dostai did not assist me, but he even said to them, "Hit him well!"

QUESTION

אמר ליה: אמאי תיעבד הכי?

Rabbi Achai said to him, to Rabbi Dostai: Why did you do this?

ANSWER

אמר ליה: אותן בני אדם – הן אמה, וכובען אמה, ומדברין מחציהן, ושמותיהן מבוהלין: 'ארדא' ו'ארטא' ו'פילי רישי'; אומרין "כפותו" – כופתין; אומרין "הרוגו" – הורגין; אילו הרגו את דוסתאי, מי נתן לינאי אבא בר כמותי.

Rabbi Dostai said to him: Those men are terrifying; they are an amah tall, and their hats are an amah tall, and they speak from their midsections with deep, booming voices, and their names are frightening: Arda, and Arta, and Pili Reish. If they say, "Bind him," they bind him; if they say, "Kill him," they kill him. If they had killed Dostai, who would have given to Yannai, my father, a son like me? I acted out of fear for my life.

QUESTION

אמר ליה: בני אדם הללו קרובים למלכות הן?

Rabbi Achai said to him: Are these men close to the government?

ANSWER

אמר ליה: הן.

Rabbi Dostai said to him: Yes.

QUESTION

יש להן סוסים ופרדים שרצים אחריהן?

Rabbi Achai asked: Do they have horses and mules running after them as an escort?

ANSWER

אמר ליה: הן.

Rabbi Dostai said to him: Yes.

RULING

אמר ליה: אי הכי, שפיר עבדת.

Rabbi Achai said to him: If so, you acted well, for it was a case of pikuach nefesh.

STATEMENT

"הוֹלֵךְ מָנָה לַפְּלוֹנִי", וְהָלַךְ וּבִקֵּשׁוּ וְלֹא מָצְאוּ – תַּנִּי חֲדָא: יַחֲזִירוּ לְמַשְׁלָח; וְתַנֵּי אֵידָהּ: לְיֹרְשֵׁי מִי שֶׁנִּשְׁתַּלְּחוּ לוֹ.

The Gemara discusses: If one says to an agent, "Take a maneh to so-and-so" as a gift, and the agent went and searched for him and did not find him because the recipient had died — it is taught in one braisa: The money should be returned to the sender; and it is taught in another braisa: It should be given to the heirs of the one to whom it was sent.

QUESTION

לִימָא בָּהּא קָמִיפְלָגִי – דְּמָר סָבַר: "הוֹלֵךְ" כְּ"זָכִי", וּמָר סָבַר: "הוֹלֵךְ" לֹא כְּ"זָכִי"?

Shall we say that they disagree about this: that one Master, the second braisa, holds that saying "take" is like saying "acquire" on behalf of the recipient, so the recipient acquired it immediately through the agent; and one Master, the first braisa, holds that saying "take" is not like saying "acquire" on behalf of the recipient, so the recipient did not acquire it before he died?

ANSWER

אמר רבי אבא בר ממל: דכולי עלמא "הוֹלֵךְ" לֹא כְּ"זָכִי"; וְלֹא קָשְׁיָא – הָא בְּבָרִיא, הָא בְּשָׂכִיב מָרַע.

Rabbi Abba bar Memel said: Everyone agrees that saying "take" is not like saying "acquire"; and it is not difficult: This braisa, which says it returns to the sender, refers to a healthy person who sent the gift, whose gift is not acquired until it reaches the recipient; whereas that braisa, which says it goes to the recipient's heirs, refers to a person on his deathbed, whose verbal instructions have the force of a written and delivered deed, so the recipient acquired it immediately.

## ANSWER

רב זביד אָמַר: הָא וְהָא בְּשָׂכִיב מָרַע; הָא – דְּאִיתִּיהָ לְמַקְבֵּל בְּשַׁעַת מַתָּן מַעוֹת, הָא – דְּלִיתִּיהָ לְמַקְבֵּל בְּשַׁעַת מַתָּן מַעוֹת.

Rav Zevid said: Both this braisa and that braisa refer to a person on his deathbed; yet this braisa, which says it goes to the heirs, refers to a case where the recipient was alive at the time of the giving of the money to the agent, so he acquired it immediately; whereas that braisa, which says it returns to the sender, refers to a case where the recipient was not alive at the time of the giving of the money, so he could not acquire it.

## ANSWER

רב פפא אָמַר: הָא וְהָא בְּכָרִיא; הָא – דְּמִית מְקַבֵּל בְּחַיֵּי נֹתֵן, הָא – דְּמִית נֹתֵן בְּחַיֵּי מְקַבֵּל.

Rav Pappa said: Both this braisa and that braisa refer to a healthy person who sent the gift; yet this braisa, which says it returns to the sender, refers to a case where the recipient died during the lifetime of the giver, so the gift was never completed; whereas that braisa, which says it goes to the heirs, refers to a case where the giver died during the lifetime of the recipient, and since the giver died, we apply the rule that it is a mitzvah to fulfill the words of the deceased.

## QUESTION

לִימָא "הוֹלָה" כּ"זְכִי" תַנָּאֵי הִיא? דִּתְנָא: "הוֹלָה מָנָה לְפִלוֹנִי", וְהָלָה וּבִקְשׁוּ וְלֹא מָצְאוּ, יַחְזִירוּ לְמַשְׁלָח. מִת מַשְׁלָח – רַבִּי נָתַן וְרַבִּי יַעֲקֹב אָמְרוּ: יַחְזִירוּ לְיוֹרְשֵׁי מַשְׁלָח, וַיֵּשׁ אוֹמְרִים: לְיוֹרְשֵׁי מִי שֶׁנִּשְׁתַּלְחוּ לוֹ.

Shall we say that whether saying "take" is like saying "acquire" is a dispute between Tanna'im? As it is taught in a braisa: If one says, "Take a maneh to so-and-so," and the agent went and searched for him and did not find him because he had died, it should be returned to the sender. If the sender died in the interim, Rabbi Natan and Rabbi Yaakov said: It should be returned to the heirs of the sender; and some say: It should be given to the heirs of the one to whom it was sent.

## STATEMENT

רַבִּי יְהוּדָה הַנָּשִׂיא אָמַר מְשׁוּם רַבִּי יַעֲקֹב, שְׁאָמַר מְשׁוּם רַבִּי מֵאִיר: מְצוּה לְקַיֵּים דְּבָרֵי הַמֵּת. וְחֻכָּמִים אוֹמְרִים: יַחְלֹקוּ.

Rabbi Yehuda HaNasi said in the name of Rabbi Yaakov, who said in the name of Rabbi Meir: It is a mitzvah to fulfill the words of the deceased, and therefore it goes to the recipient's heirs. And the Sages say: They should divide the money between the heirs of the sender and the heirs of the recipient due to the doubt.

## STATEMENT

וְכָאן אָמְרוּ: כָּל מַה שְׁיִרְצֶה שְׁלִיחַ – יַעֲשֶׂה.

And here, in Babylonia, they said: Whatever the agent wishes to do, he may do with the money.

## STATEMENT

אָמַר רַבִּי שִׁמְעוֹן הַנָּשִׂיא: עַל יְדֵי הִיא מַעֲשָׂה, וְאָמְרוּ: יַחְזִירוּ לְיוֹרְשֵׁי מַשְׁלָח.

Rabbi Shimon HaNasi said: An incident occurred in my jurisdiction, and the Sages said: It should be returned to the heirs of the sender.

#### QUESTION

מאי, לאו בְּהָא קָמִיפּ לָגִי – דִּתְנָא קָמָא סָבֵר: "הוּלֵל" לֹא כִּ"זְכִי"; וְרַבִּי נָתַן וְרַבִּי יַעֲקֹב נִמִּי –  
"הוּלֵל" לֹא כִּ"זְכִי", וְאִתָּא עַל גַּב דְּמִית, לֹא אֶמְרִינֵן "מִצְוָה לְקַיֵּים דְּבִרֵּי הַמֵּת"; וְיֵישׁ אֲמָרִים –  
"הוּלֵל" כִּ"זְכִי";

What, is it not that they disagree about this: that the First Tanna holds that saying "take" is not like saying "acquire"; and Rabbi Natan and Rabbi Yaakov also hold that saying "take" is not like saying "acquire," and even though the sender died, we do not say "it is a mitzvah to fulfill the words of the deceased"; and "some say" hold that saying "take" is like saying "acquire"?

#### EXPLANATION

רַבִּי יְהוּדָה הַנָּשִׂיא אָמַר מְשׁוּם רַבִּי יַעֲקֹב שֶׁאָמַר מְשׁוּם רַבִּי מֵאִיר – "הוּלֵל" לֹא כִּ"זְכִי", מִיְהוּ,  
הֵיכָא דְּמִית, אֶמְרִינֵן מִצְוָה לְקַיֵּים דְּבִרֵּי הַמֵּת;

And Rabbi Yehuda HaNasi said in the name of Rabbi Yaakov who said in the name of Rabbi Meir that saying "take" is not like saying "acquire," however, where the sender died, we do say "it is a mitzvah to fulfill the words of the deceased";

#### EXPLANATION

וְחֻכְמִים אֲמָרִים: יַחֲלוּקוּ – מִסְפָּקָא לָהּ; וְכֹאן אָמְרוּ – שׁוּדָא עָדִיד; וְרַבִּי שְׁמַעוֹן הַנָּשִׂיא – מַעֲשֶׂה  
אֶתָּא לְאִשְׁמוּעִינֵן.

and the Sages say "they should divide" because they are in doubt as to which view is correct; and "here they said" that the agent may do as he wishes because they hold discretion of the court is preferable; and Rabbi Shimon HaNasi came to teach us a precedent that the halachah follows Rabbi Natan and Rabbi Yaakov?

#### ANSWER

לֹא, בְּבִרְיָא דְּכוּלֵּי עֲלָמָא לֹא פְּלִיגִי; וְהָכָא בְּמֵאִי עֲסָקִינֵן – בְּשָׂכִיב מַרְע, וּבְפִלוגְתָּא דְּרַבִּי אֶלְעָזָר  
וְרַבִּנֵּן קָמִיפּ לָגִי.

The Gemara rejects this: No, in the case of a healthy person, everyone agrees that saying "take" is not like saying "acquire"; and here, with what are we dealing? With a person on his deathbed, and they disagree regarding the dispute of Rabbi Eliezer and the Rabbis.

#### PROOF

דִּתְנִין: הַמַּחֲלֵק נִכְסָיו עַל פִּיו, רַבִּי אֶלְעָזָר אֹמֵר: אֶחָד בְּרִיא וְאֶחָד מְסוּפֶה; נִכְסִים שֵׁישׁ לָהּ אַחֲרִיּוֹת –  
נִקְנִין בְּכֶסֶף וּבְשִׁטָּר וּבְחִזְקָה, וְשֵׁאִין לָהּ אַחֲרִיּוֹת – אִין נִקְנִין אֶלָּא בְּמַשִּׁיכָה. וְחֻכְמִים אֲמָרִים: אֵלּוּ  
וְאֵלּוּ נִקְנִין בְּאִמְרָה.

As we learned in a Mishnah: One who distributes his property verbally, Rabbi Eliezer says: Both a healthy person and a dangerously ill person are the same, in that property that has security — real estate — is acquired with money, with a deed, or with taking possession, and property that does not have security — movable property — is acquired only through pulling. But the Sages say: Both these and those are acquired through verbal statement alone in the case of a dying person.

#### PROOF

## אָמרוּ לוֹ: מַעֲשֵׂה בְּאֵמֶן שֶׁל בְּנֵי רוֹחֵל שְׁהִיְתָה חוֹלָה, וְאָמְרָהּ: "תִּינָתֵן

The Sages said to him: An incident occurred with the mother of the sons of Rochel who was ill, and she said, "Let my veil be given to so-and-so..."

### SUMMARY

The daf begins by resolving the dispute between the agents, with Rabbi Achai ruling that Rabbi Dostai acted properly by not resisting, given the life-threatening power of the local authorities in Neharde'a. The Gemara then launches into a major discussion on whether saying "deliver" is equivalent to "acquire" in the context of gifts. To resolve contradictions between baraitos regarding a recipient who dies before receiving the money, the Sages offer several answers: Rabbi Abba bar Memel distinguishes between a healthy giver and a dying giver (shechiv mera); Rav Zevid distinguishes whether the recipient was alive at the time of the giving; and Rav Pappa distinguishes based on who died first, invoking the principle of the mitzva to fulfill the wishes of the deceased. Finally, the Gemara suggests that this entire question of "deliver" versus "acquire" is a dispute among the Tanna'im, citing a baraita featuring Rabbi Natan, Rabbi Ya'akov, and Rabbi Yehuda HaNasi.

### לְמַעֲשֵׂה WHAT TO TAKE HOME

We often find ourselves in situations where we want to stand on principle, to be "right" and fight the good fight, just like Rabbi Yosei bar Keifar who refused to back down to the intimidating men of Neharde'a. But the Torah teaches us a deep lesson in the behavior of Rabbi Dostai. When dealing with people who are unreasonable, aggressive, or dangerous, the correct avodah is not to show off our righteousness or put ourselves in harm's way. Hashem does not want us to be dead right; He wants us to live to serve Him.

True yiras Shamayim requires us to look at the reality of the situation with clear eyes. Rabbi Dostai understood that these men were close to the government, ruthless, and completely out of control. He knew that his life, a precious neshama given to him by Hashem, was worth infinitely more than winning an argument over a vessel. Sometimes, the greatest act of gevurah (strength) is knowing when to step back, yield, and protect your peace and safety.

Today, when you encounter an aggressive driver, an angry colleague, or an unreasonable person who is looking for a fight, do not let your yetzer hara convince you that you must stand your ground to prove a point. Take a deep breath, let go of the need to win the argument, and choose the path of peace and safety.