The Chicago Center
Digest
Mishna Berura
THE DAILY RESOURCE FOR MISHNA BERURA YOMI
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סימן קנ"ג סעיף ו'-ז'

Halacha Highlight

Selling sacred items to pay for weddings

Shulchan Aruch Siman 153 Seif 6
או להשיא יתומים בדמיו
Or to marry orphans with the funds

Shulchan Aruch (סעי' ו) rules that it is permitted to sell a *sefer Torah* to generate funds needed to support students studying Torah or to marry orphans. Chelkas Mechokeik (אה"ע סי' א' סק"א) infers from the Gemara that the allowance to sell sacred items is limited to circumstances when one will fulfill a *mitzvah* with the generated funds. Therefore, sacred items may only be sold for a male orphan to marry since he will fulfill the *mitzvah* of *pru u'rvu,* but it is not permitted to sell a sacred item for a female orphan since she is not commanded in the *mitzvah* of *pru u'rvu*. Magen Avrohom (או"ח סי' קנ"ג סק"ט) cites Maharam Alshaker who contends that it is permitted to sell sacred items to generate funds to marry female orphans as well. He explains that the *pasuk* cited by the Gemara to explain this *halacha* was not the *pasuk* of פרו ורבו; rather it was the *pasuk* of לשבת יצרה—the world was created to be inhabited, and that command applies to women as well. Mishnah Berurah (ס"ק כ"ד) cites Magen Avrohom's opinion that sacred items may be sold for the benefit of female orphans as well.

Teshuvas Maharsham (ח"א סי' מ"ט) in the name of many authorities asserts that the allowance to sell sacred items to generate funds for an orphan to marry is not limited to actual orphans but includes children of someone who is poor and cannot marry off his child. In the event that money cannot be raised from the *tzibbur* directly, sacred items could be sold so that they can marry. However, *Poskim* note that sacred items may only be sold once the person in need is already engaged and ready to marry but sacred items may not be sold before that point in time (פסקי תשובות אות ח').

Stories to Share

Supporting the Poor

ש"ע, סי' קנ"ג, ו': "מוכרים בהכ"נ... ואפי' ס"ת להספקת תלמידים או להשיא יתומים"

On today's amud we find that to fulfill certain mitzvos it is sometimes permitted to sell a shul or even a sefer Torah.

The Pnei Zakein zt"l points out: "A sign of the erev rav is their propensity to build huge edifices for the use of the community, but they do it to promote themselves rather than to glorify Hashem's Name. But there is nothing that Hashem loves more than someone who supports Torah scholars so that they can learn with a clear mind."

פני זקן עמ"ס שקלים, דף ט"ו

The Sefer Chassidim discusses a person who is confronted with a choice. Should he contribute to the writing of a sefer Torah, or to clothe a poor person? "The better choice is to clothe the poor person, as it says in Yeshaya: 'If you see a naked person you shall give him clothes.'"

ספר חסידים, סי' תתרל"ו

The obvious question is why do many well-meaning people make this mistaken choice? The Chofetz Chayim explains that such people make a simple calculation: since they can't possibly help everyone, they feel as though anything done is a waste. He told a story to clarify how wrong this is.

"Once, a bridge broke just as a group was crossing it, and everyone fell into the river. 'Save us! Save us! We can't swim!' they cried. There were two people standing on the riverbank who could swim. The first jumped in immediately and started to swim out from the bank. The second called to him, 'Why bother? There must be twenty people drowning; you'll never save them all!'

"His friend called back, 'What are you talking about? Just because I can't save them all, I shouldn't save any? Even if I only manage to save one all my efforts will be worth it!'"

דבר בעתו, שער בית ישראל, פ"כ

Overview

Siman 153 Seif 6:

It is permitted to sell a *Bais HaKnesses* or any other sacred item, including a *sefer Torah* to provide the needs of students studying Torah or to marry off orphans with the money.

- The allowance to sell sacred items to support the Torah study of students is a rebuke to those who do not support Torah study in their community. (M.B. 23)
- The money may even be used for female orphans even though they are not commended in the *mitzvah* of פרו ורבו. They may also sell a *sefer Torah* to redeem a captive. Magen Avrohom writes that they should not sell a *Bais HaKnesses* to redeem a captive unless it is impossible to raise the funds from the *tzibbur* directly. (M.B. 24)

Siman 153 Seif 7 (a):

The allowance to sell a *Bais HaKnesses* is limited to one in a village that is not used by people from other places and was built for the residents of that village (even if it was built from the money of others) **and such a *Bais HaKnesses* may be sold. However, the money that is generated remains sacred and may not be used for a less sacred use. This ruling is limited to where it was sold without consent from the "leaders" of the community or if it was sold with the consent of the trustees but not in the presence of the residents of the village. If it was sold with the consent of the trustees and in the presence of the residents they may use the money for whatever purpose they choose. If the residents explicitly agreed to do submit to the authority of another, even an individual, it is binding.** Anytime the trustees sell it publicly it is considered as though it was sold in the presence of the residents of the city and it is unnecessary to secure their explicit approval or disapproval.

- Authorities agree that a place that does not have people who come from out of town to stay for an extended period of time is considered a village. This is true even though out-of-towners visit occasionally. However, a place is considered a large city if people come from out-of-town to *daven* there, for example, a place where merchants gather, or a place where a Torah scholar resides that attracts people to town. *Poskim* also note that if a *Bais HaKnesses* was built in a large city for only a small group of people it is considered a *Bais HaKnesses* in a village. (M.B. 25)
- Even if the donors do not agree they may sell the *Bais HaKnesses*. (M.B. 26)
- "Leaders" in this context refers to the city trustees. (M.B. 28)
- The seven trustees are the ones appointed to oversee the needs of the city and they are like guardians of the city. When there are seven trustees they may make any decisions they choose but if there are less than seven they must first obtain permission from the residents of the city. (M.B. 29)
- If the seven trustees publicly sold something and the residents in the city did not protest it is considered as though it was done in the presence of the people of the city. (M.B. 32)