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13. A SICILIAN IN THE SERVICE OF THE EGYPTIAN GOVERNMENT, WHO HAD A WIFE IN DAMASCUS, SYRIA, IS RESTRAINED BY THE JEWISH COURT OF FUSTAT FROM MARRYING A WIFE IN EGYPT, <sup>AS</sup> REQUIRED BY THE GOVERNMENT.

(Dec., 1139, and April-May, 1140)

A court record illustrating the mobility of <sup>M</sup>mediter-ranean people.

"The Sicilian" is not a family name here; since it comes before the words "son of", <sup>it</sup> designates the person concerned as a native of that island. Sicily, at the time of the writing of this document was not <sup>longer</sup> ~~any more~~ Muslim, but was entirely under Christian domination. Why this man emigrated to Damascus, married there, and then left his wife in order to take up government service in Cairo, we do not yet know. It was obviously not expected that she would follow him there. Unless expressly agreed upon before the marriage, a wife was usually reluctant to move far away from her family, the natural protector against a potential enemy, her husband.

Most marriage contracts found in the <sup>G</sup>geniza <sup>Z</sup>stipulate that the future husband is not permitted to marry a second wife. The Jewish courts of Egypt regarded this condition as binding, even if it was not expressly stipulated, provided the first wife did not renounce this right - which happened only in very

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exceptional cases, ~~see p. 1~~, below.

Over three months passed, between the first and the second record reported in this document and still no final word had come from the Jewish court in Damascus. Clearly a divorce was in the making the finalizing of which usually took considerable time.

The reader might wonder why the sum pledged to the court was deposited in the first place with a woman. No doubt, the house that served as security was her property and not that of her husband.

A number of reasons might have induced the court to transfer the deposit to another depository. But there is no point in guessing.

TS 13 J 2, f. 25

Legal action taken in our presence, we, the court. This happened in the month of Teveth of the year 1451<sup>1</sup> of (the era of) the Documents in Fustat, Egypt:

The elder Abū Ya<sup>ε</sup>qūb Joseph, the Kohen, the Sicili<sup>a</sup>zn, son of R. Moses, the elder, (m<sup>ε</sup>tay he) r<sup>ε</sup>st in) E(den), had

requested permission to marry in Egypt, although he had a wife in the city of Damascus, for the reason given by him and known to us, namely, that the government had threatened not to retain him in its service unless he had a wife in the country who could be held responsible for him.<sup>2</sup> It is Jewish custom in Egypt that no one is permitted to take a second wife except with the permission of the first; and if the latter happens to live in another country, the husband must deposit the first wife's late marriage portion<sup>3</sup> until his relationship with her is settled in one way or another. We had informed Abū Yaqūb Joseph, the Kohen, the Sicilian, of this and advised him to produce the marriage portion of his first wife, which he said was 50 dinars.

In this session Abū Yaqūb Joseph, the Kohen, produced two witnesses, who testified that he had delivered to Sitt al-Jamāl ("Lady Beauty"), daughter of the esteemed notable Joseph, <sup>(may he rest in Eden)</sup> ~~her~~ <sup>m.E.</sup>, after the witnesses had made proper acquaintance with her<sup>4</sup>, and to her husband, the elder Abū Yaqūb //R.77 Joseph, the esteemed "broadcaster"<sup>5</sup>, son of R. Abūn, who was an esteemed notable during his lifetime, (of) b(lessed) m(emory), 50 dinars of Fustat coinage and full weight. This amount now was a

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court deposit to be used exclusively for the late marriage portion of the said R. Joseph La-Kohen's Damascene wife until word <sup>came</sup> ~~would come~~ from the Jewish court of Damascus either freeing R. Joseph ~~La~~-Kohen from this obligation or obliging him to forward the deposit to the one entitled to it.

The witnesses testified also that they had made a full and strict symbolic purchase from the said <sup>S</sup> Litt al-Jamāl in the prescribed manner, valid as from now, voiding all secret depositions and conditions that she pledged as security her property on the island<sup>6</sup> for these 50 dinars, ready to hand them over whenever requested by the court. The witnesses had made also a symbolic purchase [[for the agreement]] to the effect that her husband R. Joseph, the broadcaster, agreed with this and that both R. Joseph and his wife were responsible for these 50 dinars, the present substituting for the absent, the one with means for the one without, and the living for the dead.<sup>7</sup>

On these conditions we permitted him to marry. We wrote down what happened before us and signed, so there should be a title of right. The words "for the agreement" are crossed out. "R." is written between the lines, and all is valid, fixed, and confirmed.

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Afterwards we, the court, transferred the aforementioned 50 dinars from R. Joseph, the broadcaster, to the elder Abū<sup>c</sup> Imrān R. Moses, son of <sup>t</sup>the elder R. Manas<sup>s</sup>eh, (may he) r(est in) E(den), as a deposit of the court, until word would come from Damascus absolving the said Joseph <sup>h</sup>La-Kohen from the commitment stated above. A document, validated in court, states the responsibility of the said elder Abū<sup>c</sup> Imrān for the 50 dinars.

Written in the month of Iyyar 1451 of (the Era of) the Documents in Sō<sup>c</sup>an<sup>8</sup>. All is <sup>Confirmed.</sup>~~valid.~~

(Signatures)

Yeshū<sup>c</sup>ā <sup>b</sup>Yōshiyāhū, descendant of the Gaon Shema<sup>c</sup>ya<sup>9</sup>

Nathan, son of R. Samuel, the hāvēr, (of) b(lessed) m(emory)<sup>10</sup>

# NOTES

<sup>1</sup>Corresponding to Dec. 2-30, 1139. See Mod. Soc., I, pp. 68 and 407, n. 40.

<sup>2</sup>Text: ya'ūd ilayhā, taking "government" (Malkhūt, masc. in medieval Heb.) as subject. Or: "to whom he would return", assuming that the husband's office required much travel.

<sup>3</sup>See p. , above.

<sup>4</sup>This phrase, a translation from the Aramaic, is normally used when a woman is introduced, the assumption being that a man is not supposed to be acquainted with a woman not belonging to his family.

<sup>5</sup>Heb. turgemān. This ancient Near Eastern word, from which English dragoman is derived, is mostly used in the sense of "translator". Here, however, where it appears as a honorific title, it probably refers to the turgemān of the yeshiva, <sup>He was a scholar</sup> who <sup>in</sup> broadcasts to a larger audience <sup>with</sup> a loud voice. ~~the~~ lecture of the head of the yeshiva and his answers to questions, spoken by him in <sup>his</sup> regular voice. Maṣliḥah ha-Kohen, who revived the Jerusalem yeshiva during his stay in Cairo

(dated documents: 1127-1139), might well have renewed this ancient office. See Med. Soc., II, p. 26.

<sup>6</sup>The island in the Nile at Cairo, the "gezira", repeatedly referred to in the <sup>9</sup>~~geniza~~<sup>2</sup> documents as the living quarters of the rich - as it is today.

<sup>7</sup>Meaning: each of the two is responsible for the whole amount.

<sup>8</sup>For variety's sake Fustat is called here by a fancy Hebrew name taken from the Bible. Iyyar 1451 = April 20-May 27, 1140 A.D.

<sup>9</sup>The Gaon referred to was in office at least one hundred and thirty years before the date of this document. Yeshū<sup>c</sup>ā succeeded his uncle Abraham <sup>b</sup>~~c~~. Shema<sup>c</sup>ya (dated documents: 1092-1132) as judge, see Med. Soc., II, <sup>p. 512,</sup> ~~App. D,~~ sec. 12.

<sup>10</sup>He also wrote this court record. He was a judge and the "Scribe of the yeshiva" - a very important office (dated documents: 1128-1153), see Med. Soc. II, <sup>p. 513,</sup> ~~App. D,~~ sec. 18.