



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

FAMILY DIVISION

ANNULMENT CAUSE NO. E005 OF 2020

IN THE MATTER OF A PROPOSED ANNULMENT OF MARRIAGE

BETWEEN

BOO..... PETITIONER

AND

AKMRESPONDENT

RULING

(1) Before Court is the Originating Summons dated **18th August 2020**, the Petitioners **BOO** seeks for orders:-

“1. THAT the Applicant be at liberty to file a Petition for the nullification of her marriage with the said AKM solemnized on the 3rd day of March 2018 notwithstanding that 1 year has passed since the date of said marriage.

2. THAT this Honourable Court be pleased to make such orders as it may deem fit.”

(2) The Summons which is premised upon **Part IV** (Subsidiary Legislation) of the **Matrimonial Proceedings Rules 2020, Order 15(1)** and other enabling provisions of the law) was supported by the Affidavit of even date sworn by the petitioner.

(3) Despite having been served with the Summons the Respondent failed to enter appearance and did not file any response to the same. As such the Summons was unopposed.

(4) The Petitioner and the Respondent got married to each other on **3rd March 2018** as evidenced by the copy of their Marriage Certificate Serial Number [...] (Annexure **'B001'**). The Petitioner claims that todate the marriage has never been consummated. She therefore seeks to file an application seeking the nullification of the said Marriage.

(5) **Section 73(2) (a)** of the **Marriage Act** provides that a Petition seeking to nullify a marriage must be filed within **one (1) year** from the date of the Marriage. It goes without saying that more than **one (1) year** has elapsed since the Petitioners marriage to the Respondent. Hence this application seeking leave to file said Petition out of time.

(6) I have considered the present application as well as the Supporting Affidavit sworn by the Petitioner. **Rule 15(1) of the Matrimonial Proceedings Rules 2020** provides that:-

“No party may file pleadings out of time except with leave of the Court on application or extension of time for that purpose and such terms as the Court may think fit.”

(7) The Petitioner has explained the reasons for the delay in filing a Petition to nullify the marriage. In my view the reasons advanced are persuasive. I note that this application is unopposed. I find that the Respondent will not suffer any prejudice if the present application is allowed as he will be accorded opportunity to oppose the Petition when filed.

(8) Accordingly I allow the present Summons in terms of prayer (1) thereof. The said Petition to be filed within **forty (40) days** of the date of this Ruling. No orders on costs.

Dated in **Nairobi** this **30TH** day of **JULY, 2021**.

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MAUREEN A. ODERO

JUDGE