



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**

**FAMILY DIVISION**

**DIVORCE CAUSE NO. 30 OF 2012**

**M F M D C S.....PETITIONER**

**VERSUS**

**F B.....RESPONDENT**

**RULING**

1. The respondent moved the court by a Motion dated 22<sup>nd</sup> June 2015 for review of an order made herein on 7<sup>th</sup> May 2015.
2. The order in question reviewed the divorce decree to the extent it allowed joint custody of the children so that child custody was subjected to a deed of settlement executed between the parties on 12<sup>th</sup> October 2011. The issue of the deed did not come up at the hearing of the suit, and it was therefore not considered at the determination of the petition.
3. The respondent argues that he has moved the Children's Court on the basis of the decree.
4. It is not disputed that the parties had executed the deed of settlement, which appears to have governed their relations so far as the children are concerned for the period between 12<sup>th</sup> October 2011 and the date of the divorce decree.
5. The deed settled the issue of the custody of the children by consent. It is binding on the parties, for it is a contract between them. The respondent has not given any reasons as to why he does not wish to have the issue of child custody governed by the deed.
6. I am not convinced that there are good grounds for reviewing the order of 7<sup>th</sup> May 2015. The application dated 22<sup>nd</sup> June 2015 is accordingly disallowed. There shall be no order as to costs.

**DATED, SIGNED and DELIVERED at NAIROBI this 26<sup>TH</sup> DAY OF OCTOBER, 2016.**

**W. MUSYOKA**

**JUDGE**