

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI
DIVORCE CAUSE NO.88 OF 2009

I.W.MPETITIONER

VERSUS

G. K.WRESPONDENT

J U D G M E N T

The petitioner and the respondent were married on 14th May 2002 under the **Marriage Act** at the Registrar's office in Nairobi. According to the petitioner, she got married to the respondent despite objection from both sets of parents. This was because the mothers of the petitioner and the respondent i.e. C.W and J. W are sisters. The marriage between the petitioner and the respondent was blessed with one child, a girl, born on 23rd November 2003. Due to pressure from both sets of parents, the petitioner and the respondent stopped their cohabitation in mid 2009. The petitioner told the court that she made the decision to divorce the respondent because she wanted to get into the good books of her parents and also so that she can have the blessings of her said parents. She therefore urged the court to annul her marriage to the respondent pursuant to the provisions of **Section 14(1)(c)** of the **Matrimonial Causes Act** which prohibits marriage between persons falling within the prohibited degree of consanguinity.

The respondent was served with the petition for divorce. He neither entered appearance nor filed an answer to the petition. The Deputy Registrar of this court certified the petition ready for hearing. This court was satisfied that the respondent was duly served. It ordered the petitioner to proceed with the hearing of the petition, the absence of the respondent notwithstanding. In her testimony, the petitioner essentially reiterated the contents of her petition for divorce. Having evaluated the evidence adduced, this court was satisfied that the marriage between the petitioner and the respondent was a nullity by reason that the petitioner and the respondent were within the prohibited degree of consanguinity as provided under **Section 14(1)(c)** of the **Matrimonial Causes Act**. The petitioner and the respondent are first cousins and therefore are prohibited from getting married to each other.

In the premises therefore, this court declares the marriage celebrated between the petitioner and the respondent on 14th May 2002 at the Registrar's office in Nairobi to be null and void. Decree nisi nullifying the said marriage is hereby issued. The decree nisi shall be made absolute thirty (30) days from the date of this judgment. The petitioner shall have custody of the child of marriage. There shall be no orders as to costs.

DATED AT NAIROBI THIS 25TH DAY OF FEBRUARY, 2011

L. KIMARU
JUDGE