



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT ELDORET

DIVORCE NO. 20 OF 2009

F.A.S.....PETITIONER

VERSUS

G.M. M.....RESPONDENT

JUDGEMENT

F.A.S, the Petitioner and **G.M.M**, the respondent, were married on 12th October, 2006 under the Marriage Act (Cap 150 Laws of Kenya). They were duly issued with a Marriage Certificate. They were not blessed with any issue. They lived and cohabited in Kitale until the year 2007 when the petitioner discovered that the respondent had, at the time of celebration of their marriage, been married to one **L.N**. She subsequently lodged this petition on 6th October, 2009 on the grounds that their marriage was a nullity.

The respondent filed no answer to the petition. The petition came up for hearing before me on 7th March, 2011, when the Petitioner testified that the respondent, at the time of their marriage, on 12th October, 2006 had no capacity to enter into a marriage with her. She produced a copy of a Certificate of making decree nisi absolute in **Nairobi Milimani Commercial Court Divorce Cause No. [...] between the Respondent and the said L.N.M** in support of her petition. The Certificate indicated that a decree nisi in the said cause had been issued on 24th October, 2006 dissolving the said marriage.

The decree nisi was made absolute on 6th June, 2007. In the premises the Petitioner testified that when

she and the respondent married on 12th October, 2006, the respondent was still married to the said L.N. He therefore had no capacity to marry her. She therefore prayed that her marriage with the respondent be nullified.

Having heard the Petitioner's testimony, which was not contradicted, I find that the Petitioner has established the ground seeking the declaration aforesaid. The respondent knew of his marriage to the said L.N and wilfully entered into marriage with the Petitioner. The respondent had obviously no capacity to marry the petitioner. In the premises, I am satisfied that the marriage between the Petitioner and the Respondent is a nullity. The same is so declared. Decree nisi should issue forthwith. The same shall be made absolute after one month thereafter.

The respondent shall pay the petitioner's costs.

Orders accordingly.

DATED AND DELIVERED AT ELDORET THIS 28TH DAY OF MARCH, 2011

F. AZANGALALA

JUDGE

Read in the presence of:-

Mr. Were for the Petitioner

F. AZANGALALA

JUDGE

28TH MARCH 2011