



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAKURU

Divorce Cause 5 of 2003

S W KPETITIONER

VERSUS

J J MRESPONDENT

J U D G M E N T

The Petitioner in this divorce cause **S W K** sought for an order of dissolution of a marriage that was solemnized between her and the respondent **J J M** on 20th February, 1998, at the office of the Registrar of Marriages at Nakuru. Before the said solemnization the parties were married under the Kikuyu Customary Law from 1990.

After the marriage the parties who are both domiciled in the Republic of Kenya, they cohabited at Banita within Solai area in Nakuru District. There are two issues of the said marriage namely:-

R W - aged 16 years.

L N - aged 10 years.

During the hearing of this petition, the Petitioner gave evidence and gave a detailed account of the particulars of cruelty stipulated in the petition for divorce. The Petitioner complained that the respondent was unfaithful to her, when she questioned the defendant about the women he was spending too much time with the Petitioner was subjected to severe beatings and at one time in 1999, the Petitioner said she was beaten until she fainted.

On another occasion the Respondent assaulted the Petitioner, hit her with a metal bar and thereby occasioning her actual bodily injuries.

Apart from physical beatings the Petitioner was also subjected to physiological trauma due to constant quarrels, threats and insults by the respondent.

It was the Petitioner's evidence that the respondent neglected his parental responsibility of providing for the family and used all his money drinking alcohol with women friends. The Petitioner also accused the Respondent of having committed adultery with several women and one such incident the Respondent had to pay the mother of the girl he had defiled compensation. Due to these problems, the parties separated in July, 2003, and the Petitioner sought for a formal order of separation and now seeks for orders of dissolution of the marriage, custody of the children, maintenance and a declaration that the properties acquired during marriage are owned equally between the parties..

This Divorce Cause was not defended.

I have carefully considered the evidence by the Petitioner and the pleadings filed herein. I am satisfied that the Petitioner has been able to prove her case to the required standard.

Accordingly, I hereby pronounce the decree of divorce. The decree nisi shall remain in force for a period of 3 months and hereafter may be made absolute.

The Petitioner shall also be entitled to the custody of the two children and the respondent is hereby ordered to pay the children's school fees.

The Petitioner shall be entitled to keep the three heads of cattle and sheep and one half share of plot in Nyandarua as well as the cost of this petition.

It is so ordered.

Judgement Read and Signed on 28th April, 2006.

MARTHA KOOME

JUDGE

28.4.2006