

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI (NAIROBI LAW COURTS)

Divorce Cause 27 of 2005

F.T.M PETITIONER

VERSUS

J.O.O RESPONDENT

ORDER OF THE COURT

I was made to understand when this matter was brought before me that the same was an undefended cause and that it was not placed on the cause list for today before any of the Judges in the Family Division.

I came to learn that it was fixed for hearing for Registrar's certificate before the learned Deputy Registrar.

It is true that the date was taken by consent but due to the confusion in the Cause list, I shall not take against the Counsel for the Respondent for not appearing as it could be difficult to trace the movement of the file.

It came to me at about 11.00 a.m. and I was made to understand that it was an undefended cause. So taking the words from the counsel I heard the matter.

I realized the otherwise when I started writing the judgment. I was shocked to see the cross-petition as well filed by the Respondent.

In the premises, it was unfair to the Respondent to hear the matter ex-parte.

I therefore strike out the proceedings of 25th May, 2006 from the court record and direct that a fresh date be taken at the registry for hearing this petition as a defended cause as rightly certified by the Learned Deputy Registrar.

To be just and ethical, I also direct that the petition be heard by any other Judge in the Family Division except me.

Dated and signed at Nairobi this 8th day of June, 2006.

K.H. RAWAL

JUDGE

25.5.06