



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

**Divorce Cause 82 of 2005**

**S.E.D ..... PETITIONER**

**VERSUS**

**D.J.D..... RESPONDENT**

**JUDGEMENT**

The parties before the court are not African but are Caucasians by race. I shall be pardoned to use those words but they are pertinent to the decision of this case.

They got married at the Evangelical Lutheran Church in Nairobi. Little they knew that their marriage was stamped and certified under the African Christian Marriage Act (Cap 151 Laws of Kenya). Their marriage certificate is annexed to the Petition.

Under Section 3 of the said Act, the provisions thereof shall apply only (*emphasis mine*) to the marriages of Africans one or both at whom profess the Christian religion.

This act came into force on 17<sup>th</sup> December 1931 and from objects and all other provisions of the Act it leaves no doubt that the said Act does not apply to the persons belonging to the Caucasian race. The '*whites*' as they are commonly called in Kenya.

It pains me to state that this archaic Act which in my view is not only unconstitutional and discriminatory but is derogatory to all Kenyans of all races. The faster it is removed from pages of our laws, the better it would be.

Coming back to the petition before me, I have no other option but to declare the marriage between the parties herein as nullity which I hereby do.

The *decree nisi* be made absolute within 15 days thereof looking at the date of the alleged marriage.

Dated and signed this 8<sup>th</sup> day of June, 2006.

**K.H. RAWAL**

**JUDGE**

**8.6.06**