



**CAO v COO (Divorce Cause 196 of 2000)**

**[2004] KEHC 1962 (KLR) (Family) (12 March 2004) (Judgment)**

*CHRISTINE ACHIENG OGOT vs CHRISTOPHER ODHLAMBO OKETCH*[2004] eKLR

Neutral citation: [2004] KEHC 1962 (KLR)

**REPUBLIC OF KENYA**

**IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)**

**FAMILY**

**DIVORCE CAUSE 196 OF 2000**

**MK KOOME, J**

**MARCH 12, 2004**

**BETWEEN**

**CAO ..... PETITIONER**

**AND**

**COO ..... RESPONDENT**

**JUDGMENT**

1. The Petitioner in this cause, presented the amended petition, whereby she seeks for an order dissolving the marriage solemnized on 31st August, 1985 at St. Joseph’s Cathedral Church Kisumu between the Petitioner and Respondent.
2. After the solemnization of the said marriage, the parties cohabited in Mombasa until 1989 when they separated. There is some issue to the said marriage namely MO aged 16 years. Both parties are domiciled in Kenya.
3. The Respondent filed an answer and cross petition but did not appear during the hearing. The petitioner in presentation of the petition adduced evidence in support of the grounds contained in the amended petition. According to the petitioner, she was subjected to physical and verbal violence. She was tormented by the Respondent who used to stalk her. In one incident, the petitioner was assaulted until she had a miscarriage. She was hospitalized and the respondent neglected/refused to pay the hospital bills. The petitioner was helped by her employer to pay the bills. The petitioner was supposed to surrender her entire salary to the Respondent who would in turn give her transport go to work. The petitioner was so oppressed because the Ksh.10/= she used to be given would hardly be enough for bus fare and lunch. Eventually when the petitioner obtained a job in Nairobi she moved



to Nairobi with the child. All attempts in 1990 to reconcile the parties did not work as the respondent did not want to talk about their problems before the family meetings.

4. I have considered the evidence tendered by the petitioner, the amended petition filed herein as well as the Answer and Cross Petition by the Respondent. It is noteworthy that even the Respondent although he did not prosecute the cross petition has sought for the dissolution of marriage. Whichever way therefore one looks out the marriage, it is irretrievably broken down. The only issue is perhaps for the custody of the child who is now 16 years old and has been in *defacto* custody care and control of the petitioner since 1990 and there being no grounds adduced as to why the *status quo* should be disturbed, I would not interfere with the custody.
5. In conclusion therefore, I find that the petitioner has been able to prove the grounds of cruelty and I accordingly pronounce a decree of divorce and dissolve the marriage solemnized on 31st August, 1985. The *decree nisi* shall issue for a period of 6 months.
6. The petitioner shall have custody of the minor child of the marriage. Each party shall bear their own costs of this litigation.

It is so ordered.

**JUDGMENT READ AND SIGNED ON 12<sup>TH</sup> MARCH, 2004.**

**MARTHA KOOME**

**JUDGE**

