REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA
AT MOMBASA
DIVORCE CAUSE NO.36 OF 2004

JAO ……...…… PETITIONER
VERSUS
BMN..... …….……..RESPONDENT

Coram: Before Hon. Justice Mwera
Petitioner present in person
No appearance for Respondent
Court clerk – Sango

J U D G E M E N T

On 30-6-2004 June petitioned this court seeking dissolution of her marriage to BMN which marriage was celebrated on 21-12-92. The petition stated that after that marriage the couple lived together at Bersheba Mombasa and on 18-3-92 they had a daughter – JAM. That then the respondent deserted his family leaving the wife (petitioner) and daughter at Bersheba (Mombasa) while he went off to live in Switzerland. That he has lived there since without maintaining the two. That accordingly this marriage needs be dissolved.

In evidence the court was told that BMN who returned to Mombasa and was still here at the time of the hearing, was served with the petition. He acknowledged service but did not respond to it. The court was also told and the record has it that the registrar certified the petition to go on as undefended. Also it was shown that despite that, a hearing notice was served on the respondent but he did not appear at the trial. The petitioner ended her evidence by asking to have custody of their daughter who, we are told, is going to school.

Having heard the petitioner this court is satisfied that the marriage between her and the respondent be and is hereby dissolved on account of desertion. It was not pleaded but in evidence the petitioner sought custody of their daughter. In the circumstances of the case she will have it. Costs to the petitioner. A decree nisi to issue.

Judgment delivered on 17th September, 2004.

J.W. MWERA
JUDGE