



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT MOMBASA
DIVORCE CAUSE NO. 20 OF 2002

NANCY NJOKI MWANGI PETITIONER

VERSUS

TIMOTHY OWADE OCHIENG..... RESPONDENT

JUDGMENT

The Petitioner then a spinster married the Respondent then a Bachelor on 28th August 1987 at the Registrar of Marriages, Mombasa. The couple was blessed with 2 children who at the time of judgment are aged as follows

1. KAGGI MAGGOYE aged 17 years.
2. JOWI MONDO MAGGOYE aged 15 years 9 months.

The couple lived together at Bombolulu where the Petitioner was housed by her employer at the Bombolulu school for the physically disabled. Until May 1999 when the Respondent moved out and has not returned to date leaving the two children under the care and custody of the Petitioner.

During the subsistence of the said marriage, it was the Petitioner's evidence that the Respondent subjected her and the children to mental and physical torture. He would disappear from home for days and not disclose his whereabouts. He also used to expose the Petitioner to love letters to him by other women and also used condoms. When the Petitioner would enquire into his behaviour, he turned violent and on 10th April 1999 he beat her in the presence of the children. The Petitioner says the Respondent has not been visiting the children nor providing for their upkeep. The Respondent though served, failed to acknowledge service and the Deputy Registrar directed that the matter proceeds as an uncontested petition.

I have considered the evidence by the Petitioner and have no doubt she has reason to want to get out of the said marriage. The respondent seems to have gone on with his life and it is only fair that the Petitioner too has a chance to re-build her life.

I have noted the children are now in their teenage and still in school. They still require to be maintained and school fees paid and the Respondent is still in gainful employment. In the circumstances I order as follows:

- (a) The marriage is hereby dissolved and a Decree Nisi shall issue.**

(b)The custody of the children to remain with the Petitioner as has been until further orders of this court to the contrary.

(c) The Respondent to pay for the maintenance of the children and as well as their school by providing a lump sum payment to to the Petitioner on each 8th day of the month beginning the month of June 2003 a sum of Kshs.3,000/=. The said sums are to be deducted by his employer.

(d)The Permanent Secretary, Ministry of Agriculture to ensure the said amounts are deducted and paid to the Petitioner directly on the due date.

Respondents details:

Mr. Timothy Oluade Ochieng

ID No.8376682

Employment No. 17413

(e)The Respondent to pay the costs of this petition which costs are to be assessed by the Deputy Registrar and a certificate issued.

(f) A copy of this judgment is to be served upon the Respondent.

Dated and delivered this 28th day of May 2003.

P.M. TUTUI

COMMISSIONER OF ASSIZE