

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

Divorce Cause 141 Of 2002

LMM.....PETITIONER

Versus

JAOW.....RESPONDENT

JUDGMENT

In this petition, the petitioner LMM seeks for the dissolution of the marriage Solemnized on 4th November 1995 at All Saint Cathedral between her and JAOW. Since marriage the couple cohabited as husband and wife in various estates in Nairobi. They have one issue of the marriage namely IWO born on 24th August 1996.

This petition was certified on 5th June 2003 as undefended Cause, and during the hearing the petitioner testified and gave a detailed account of systematic acts of cruelty that she was subjected to during the marriage as follows:

Immediately after marriage and while the petitioner was expecting the child, the petitioner was beaten seriously and was thrown out of the respondent's parents house. The petitioner testified how she was taunted and harassed by the respondent's parents and accused of choosing to give birth by way of a caesarean section which was expensive as opposed to a normal delivery. The respondent sacked the petitioner's housegirl immediately she was discharged from hospital when she was weak and not yet well recovered. The beatings went on and the year 2000 was very difficult for the petitioner, she detailed three incidences whereby she was viciously attacked by the respondent in the presence of the minor child. Those incidences of cruelty have traumatized the child of the marriage. The petitioner has also suffered mental anguish, physical pain and public humiliation.

Despite attempts to reconcile the marriage has broken down irretrievably and the petitioner eventually left the matrimonial home in January 2001 for the sake of her own security and that of the child.

I have considered the petition filed herein and also the testimony of the petitioner, I am convinced that this petition has not been brought by way of collusion. The petitioner has been subjected to cruelty that forced her to flee the matrimonial home for the sake of her own security and the minor child. She has been taking care of the minor child since January 2001. The respondent has not bothered even to visit the minor child.

In consideration of the above, I will grant the order sought and the marriage between the petitioner and respondent solemnized on 4th November 1995 is hereby dissolved. The decree nisi shall issue for a period of 6 months.

The petitioner is hereby granted the custody, care and control of the child of the marriage.

No order as to costs. Orders accordingly.

Judgment delivered and signed on 14th November 2003.

MARTHA KOOME

JUDGE