

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT MOMBASA
DIVORCE CAUSE NO.13 OF 2002

A W..... PETITIONER
VERSUS
J M M RESPONDENT

JUDGMENT

The Petition herein, filed by A W on 14th May 2002 is seeking that the marriage solemnised on 27th December 1997 at Shanzu Catholic Church be dissolved.

Only the Petitioner gave evidence as the Respondent though served with all documents, did not file any answer to the Petition and did not attend court on the hearing of the Petition.

The Petitioner in her evidence to the court stated that she was married to the Respondent on 27th December 1997 at Shanzu Catholic Church. She produced Marriage Certificate No. [particulars withheld] as exhibit. After marriage she developed some health problems as her pregnancies were not normal ones and she had problems. These necessitated medical expenses. She however gave birth to one child but that child died in infancy. Thus they now do not have any child. On 11th January 2001, the Respondent deserted matrimonial home and is now living with another woman called Irene Jilani with whom the Respondent has been committing adultery and he is still continuing to commit adultery with her. The Respondent abandoned her immediately their child died. The Respondent took all his belongings and left matrimonial home. This has caused her a lot of stress and depression particularly as he left her when she had just had an operation which had not yet healed.

All these allegations made on oath have not been rebutted. I do find that cruelty has been proved as well as adultery. The marriage seems to have broken down irretrievably.

I grant the prayer for dissolution of the marriage solemnised between the Petitioner and the Respondent on 27th December 1997. Thus Decree Nisi is granted. The Respondent is condemned to pay costs of this Petition.

Dated at Mombasa this 3rd Day of September 2002.

J. W. ONYANGO OTIENO
JUDGE

