



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT NAIROBI (MILIMANI LAW COURTS)**

**DIVORCE CAUSE NO. 218 OF 2000**

**M.M.M ..... PETITIONER**

**VERSUS**

**A.K.M ..... RESPONDENT**

**JUDGMENT**

In this matter Mr. Githaiya has appeared for the petitioner, **M.M.M**, while Mr. Mungata is representing the Respondent, **A.K.M**.

The Petitioner has offered no evidence to support his petition for divorce. The Respondent on the other hand has adduced evidence in answer to the Petitioner's petition and in support of her cross petition for divorce. The two were married on 24th August 1991 at Karatina in a Catholic Church under the African Christian Marriage And Divorce Act (Cap. 151 Laws of Kenya). They have two children the issue of the marriage, namely, **M.M.M** and **A.W.M**.

I have recorded the evidence adduced by the Respondent and it is now on record. It is unchallenged evidence on the grounds of cruelty and desertion.

I do notice that the parties have filed a consent concerning legal custody of their two children of the marriage.

The above being the position, there is no way the petitioner's petition in this cause can stand.

Accordingly, and subject to the consent aforesaid, the petitioner's petition be and is hereby dismissed.

The Respondent's cross petition be and is hereby allowed and the marriage between her and the petitioner shall be dissolved on the grounds of cruelty and desertion.

Accordingly a decree nisi to issue and the same not to be made absolute until after the expiration of six months from today.

Custody of the Children to be in accordance with the consent of the parties dated 31st October 2002 and filed same date as per their advocate's jointly signed letter Ref. No. AKM/0101225/L as follows:

“ 1. That legal custody and care and control of the children of the marriage be and is hereby granted to the mother, **A.K.M** with reasonable access to the father including reasonable visits by the children outside the jurisdiction of the court.

2. That the Petitioner father do provide and secure the children's education and school related expenses.
3. That the Petitioner do provide and secure medical and health care expenses for the children of the marriage.
4. That there be liberty to apply for further orders."

As the Respondent says in her evidence that she does not want costs of this cause and has not in her evidence asked for maintenance/alimony to her and the children, and subject to the consent of the parties aforesaid, each party to bear its own costs of this cause and there will be no orders as to maintenance/alimony.

Dated, delivered and signed at Nairobi this 31st Day of October, 2002.

J.M. KHAMONI

JUDGE