

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

DIVORCE CAUSE NO. 23 OF 2002

N.O PETITIONER

VERSUS

T.O RESPONDENT

J U D G E M E N T

The petitioner N.O got married to the respondent on 7th July, 1990 at the Luthern Church in Nairobi. She is Ethiopian by nationality, and her parents live here in Nairobi.

The respondent is a Nigerian by nationality. After one week of the marriage, the couple moved to Cardiff in Great Britain and lived there from July, 1990 to March, 1995. The respondent was working, and this gave them residence, status, and in 1995, the couple became British citizens.

In August, 1994, they had their first born child, a daughter. The respondent left his job in 1994 and took off about 3 months to be with the family and also get on with some studies and also find an alternative job which he did in London, and the family moved there at the end of January, 1995.

The respondent told the petitioner to move to Kenya with the baby to enable him to save money from looking after the family.

The petitioner did move to Kenya and lived with her parents. The respondent joined him in October, 1996. In December the same year, the family found their own flat, in which they lived for 2 years.

The petitioner complained that the respondent did not support her and the baby, for the period she lived in Kenya, but because she was working and also lived with her parents she was able to cope.

The respondent got a job in Kenya, and once again, the family lived together, but soon the respondent started having problems at work. At home he was not able to settle down to an African life, with relatives visiting. He had a British mentality, having lived in Britain since he was 9 years old. So the respondent had problems both at the work place because he suffered a complex and at home because he could not take responsibility. The problems became so bad that in July, 1997, he moved and found accommodation elsewhere. At the end of the same year, he left his job, but again, he came back to live with the petitioner to try and work things out.

He found another job with the neighbour's, a family business in 1998, but in June the same year, he again left and lived with a friend until December 1998 when he left for the UK.

The petitioner has never seen him again. She prayed the court to dissolve her marriage to the respondent and give her custody of her daughter. The petitioner does not have a marriage certificate in her custody. Her husband took it. She nevertheless got a court order to confirm that she was married to the respondent. The order was handed to court.

The records show that the respondent was served with the petition, but he did not respond. The Registrar certified the cause as undefended.

From the evidence on record, evidence which has not been challenged, I find that the respondent has deserted the petitioner for a period of more than 3 years with no just cause. I therefore grant an order to

dissolve the marriage between the petitioner and the respondent. I also grant the custody of the only child of the marriage

to the petitioner. Finally, I direct that the decree nisi do issue today and the same to be made absolute within one month from today.

Dated at Nairobi this 24th day of October, 2002.

JOYCE ALUOCH

HIGH COURT JUDGE