

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

DIVORCE CAUSE NO. 28 OF 2001

A M W K PETITIONER

VERSUS

T K RESPONDENT

J U D G E M E N T

The petitioner A M W K , married the respondent on 8th April, 1972 in a Catholic church in Nyeri. A copy of the marriage certificate is attached to the petition. Thereafter they set up a home in Nakuru where they lived between 1972 – 1997. They have four living children whose particulars are as shown in para 3 of the petition. One child died in 1973.

The petitioner is a Deputy Provincial Police Officer, based in Kisumu, whilst the respondent is now a retired civil servant. He retired last year, 2001. The petitioner has complained of cruelty on the part of her husband, i.e. constant beatings which have caused her both physical and mental anguish, stress and a weak heart condition which has led her to attend a heart clinic in Hurlingham in Nairobi, and get medical treatment. She produced medical documents in court to support this.

The petitioner also complained of adultery committed by her husband with a woman called R W. However, the woman was not cited and was not served and is therefore not a party to these proceedings. Nevertheless the petitioner complained that her husband and the woman have a child who is at times brought to the house and this too has caused her mental anguish.

The petitioner complained further that the respondent never used to provide for her and the children. She had to bear responsibilities of the family and even educate the four children who are all in USA now. The respondent has all along been served with the proceedings, but he has never responded. From the evidence given by the petitioner this morning, evidence which has not been challenged. I am satisfied that the respondent has treated her with extreme cruelty as she narrated in court. I am therefore granting an order for Judicial Separation in favour of the petitioner. Further, I direct that the respondent be condemned with the costs of this petition.

Dated at Nairobi this 25th day of October, 2001.

JOYCE ALUOCH

HIGH COURT JUDGE