

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

HIGH COURT DIVORCE CASE NO.62 OF 1999

SUSAN KAGWIRI KIRIMI PETITIONER

VERSUS

JAPHET KIRIMI MBURUGU RESPONDENT

J U D G M E N T

On the 24th August, 1993 the Petitioner **Susan Kagwiria Kirimi** then a Spinster was lawfully Married to **Japheth Kirimi Mburugu** then a Bachelor under the African Christian Marriage of Divorce Act. The Marriage was solemnized at **Katheri Methodist Church in Meru**. After the said Marriage the Petitioner and the Respondent lived and cohabited at Othaya in Nyeri for about 3 years from August, 1993 up to about 1995 when the Respondent deserted the Petitioner without reasonable cause. During their Marriage the couple was blessed with one issue by the name **Diana Makena** born on 11th August, 1994 and the Petitioner had one issue by the name **Melody Gatwiri** who she got out of a wed lock from another man.

The Petitioner by this petition prays that the court shall decree:

- (a) That the said Marriage be dissolved
- (b) That she may have custody of the said two issues of the Marriage.
- (c) That the Respondent be condemned in the costs of the proceedings.

She cited cruelty and desertion as the grounds for dissolution of her Marriage. In her evidence she told the court that the Respondent did not establish a matrimonial home and whenever he visited her at Othaya, on some weekends he was always drunk and would go to bed fully dressed and with his shoes on and nag the Petitioner for the whole period of his visit. The Respondent was served but he never defended the Petitioner. The Petitioner has proved her petition and the court decrees that the Marriage between the Respondent, which was solemnized at Katheri Methodist Church on 24th August 1993 is hereby dissolved. She keeps the custody of the children.

The decree nisi issues and decrees absolute to issue within 30 days.

Order accordingly.

Dated and delivered at Nairobi this 8th day of March, 2000

J.L.A OSIEMO

JUDGE