



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT MOMBASA**  
**DIVORCE CAUSE NO. 2 OF 2010**

**Z Y S A.....PETITIONER**

**VERSUS**

**Y S A.....RESPONDENT**

**RULING**

By way of this Chamber Summons dated 4<sup>th</sup> April, 2014 the applicant seeks the transfer of the present suit from the High Court in Mombasa to Nairobi for hearing and determination. The application is supported by the affidavit of **H M O** sworn on 4<sup>th</sup> April, 2014. The reason given for this request for transfer is that the applicant had been involved in a motor vehicle accident and suffered a problem of reduced mobility and neural co-ordination. The annexed doctor's report dated 3<sup>rd</sup> April, 2014 indicates that the doctor has advised the applicant not to travel. As such she would be unable to travel from Nairobi to Mombasa except with great risk to her health/life.

The application has been opposed. The respondent claims to have met the applicant in Mombasa on two occasions. In addition the respondent claims that he is unable to travel to Nairobi as he runs a busy medical practice in Mombasa and often has to attend to patients in the dead of the night.

I have carefully considered this application as well as the material availed. I am persuaded that it would be unreasonable to expect the applicant in her current circumstances to travel to Mombasa against medical advice. The respondent on the other hand can quite feasibly get another doctor to attend to his patients if he has to travel to Nairobi for the case. In any event I do not anticipate that the respondent will have to be present in Nairobi for more than a day – simply to give evidence. I therefore allow this application for transfer of the case. Deputy Registrar to effect transfer of this file to the Family Division of the High Court in Nairobi for hearing and determination. Costs in the cause.

**Dated and delivered in Mombasa this 1<sup>st</sup> day of September, 2014.**

**M. ODERO**

**JUDGE**

In the presence of:

Mr. Chebukaka h/b A. H. Malik for Petitioner

No Appearance for Respondent

Court Clerk Mutisya