

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CIVIL CASE NO. 81 OF 1997

JUDITH MIREMBE OMWANZA.....PETITIONER

VERSUS

PETER K. NYARECHA.....RESPONDENT

J U D G M E N T

The parties herein were married on 2nd January, 1987 at the Registrar's office Nairobi under the Provisions of the Marriage act cap.150 Laws of Kenya. The certificate of Marriage annexed to the petition confirms this.

After the said marriage the couple cohabited at Rubia Estate, Langata in Nairobi. There are three children out of the said marriage namely Leon Nyarecha, David Nyarecha and Lewis Nyarecha. They are all below 12 years old.

The petitioner Judith Mirembe Omwanza has moved the court seeking orders for the dissolution of the said marriage, custody of the children of the marriage and maintenance. The grounds upon which the dissolution is sought are cruelty and adultery. The respondent was served with the petition and notice to appear but did not comply neither did he file an answer thereto. This petition is therefore undefended. The petitioner gave evidence in support of her pleadings.

I heard her testify and watched her demeanour. I believe she told the court the truth. The marriage cannot be sustained. The petitioner has also asked for the custody of the children. The oldest is about 10 years old while the youngest is about 4 years old. There is no reason why she should not have the custody subject to reasonable access to the children by the respondent.

Accordingly, I make the following orders: (a)The marriage between the parties is hereby dissolved.

(b)The petitioner shall have the custody of the children of the marriage but the respondent shall have access to them on one weekend per month upon prior notice to the petitioner.

(c)The issue of maintenance is hereby deferred until affidavits of means have been filed.

(d)There shall be no order as to costs. (e)Either party has liberty to apply.

DECREE NISI shall issue forthwith and may be made absolute after ONE month from the date hereof.

Order accordingly.

Dated and delivered at Nairobi this 11th day of December, 1997.

A. MBOGHOLI MSAGHA

JUDGE