



REPUBLIC OF KENYA

IN THE SENIOR RESIDENT KADHI'S COURT

AT MARSABIT

DIVORCE CASE NO. 38 OF 2019

DD.....PETITIONER

VS

KM.....RESPONDENT

RULING

The petitioner prays for;

- a) Custody of the children.
- b) Maintenance and
- c) Divorce.

The respondent did not make any defence for this case.

BACKGROUND

The marriage between the petitioner and the respondent took place in the early last year 2018, the marriage has been quite good for the first time, the petitioner avers that the respondent started changing in terms of behavior and action, the respondent started taking alcohol, coming home late at night, he also started chewing miraa. The respondent also started to be cruel to the petitioner, he used to beat her until one time the petitioner was hospitalized and a minor surgery was done to her. That made the family of the petitioner become so harsh to the respondent until one time, the respondent came home at around 9.00p.m he was beaten seriously by the brother of the petitioner till his head was injured, he came to court, with the bandage on his head, when the court intervened, he said clearly and cordially that he has forgiven his brother in law, what he really needs is that he wanted just a divorce, but previously the petitioner and the respondent loved one another even when the case was going on there was love messages sent to one another. The marriage was interfered by the mother in law of the respondent.

ANALYSIS AND FINDINGS

After reading and analyzing the above matter the court finds that the marriage has external interference, by the side of the mother of the petitioner. One time the respondent confirm before the court that his mother in law told the petitioner that if he goes back to that person, meaning her husband she will commit suicide, so the petitioner feared if she goes back to her matrimonial home her mother will commit suicide.

- **To what extent can the husband's relatives be in the marriages life,**
- **what are the rights of the in laws (The husband brothers and sisters).**
- **In Islam do the father and mother in law have rights of obedience?**
- **Do they have rights to enter my room?**

The question asked by the defendant;

Answer:-

According to Islamic point of view parents have no right to interfere with the marriage of their son and daughters in law, unless both parties have gone against the teaching of Islam, for example when one of them denounces Islam, in such case it is upon the parents to go extra mile to ask his son to divorce his wife, but in the case of the petitioner and the respondent the marriage was interfered without looking any Islamic values.

It is not permissible for any of your in laws to enter your room without your permission, because Allah says (interpretation of the meaning) "O you who believe! Enter not houses other than your own, until you have asked permission and greeted those in them; that is better for you, in order that you remember."

AL-Noor 24:27

IBN KATHEER may Allah have mercy on him) said, discussing some of the husband rights over his wife; Allah has given the husband rights over his wife. He has forbidden her to disobey him because of the fact that he excels her and maintenance her TAFSEER IBN KATHEER, 1/493.

With regards to the husband, she must obey him in the matters that are right and proper, because Allah says interpretation of the meaning) "Men are the protectors and maintenance of women, because Allah has made one of them to excel the other and because they spend (to support them) from their EARNINGS.

We should be tolerant and be patient with one another and we should not forget to be kind to one another. We should speak to one another in kindness and the patient, and ward off evil with that which is better. We should speak well to the slaves of Allah until we meet Allah.

CONCLUSION:

After reading both complaints and the defence from the petitioner and the respondents, the marriage have been interfered by both parents of the petitioner. It is clear indication that after the defendants went home to see his wife and children, the uncle and his brother in law came out, and started beating the defendant until his head was damaged.

Therefore for the security of the both parties the court have the following ORDERS to make;

- 1) The marriage between the parties be dissolved.
- 2) Since the petitioner is the one to request for the divorce she has to return the dowry of 8,000/= in cash.
- 3) The custody of the children to be given to the respondent, if all their children reach at the age of majority.
- 4) The respondent has full authority to access his children.
- 5) The above **Order** shall be adhered to by both parties failure to which the parties should be imprisoned for a period **Not** less than six months.

Given under my hand and the seal of this court on the 16th day of August, 2019, before Hon. Adan I Tullu,

HON. ADAN I. TULLU

SENIOR RESIDENT KADHI

MARSABIT LAW COURT