



**REPUBLIC OF KENYA**

**IN THE KADHIS COURT AT GARSEN**

**DIVORCE CASE NO 11 OF 2018**

**HMJ..... APPLICANT**

**JAO.....RESPONDENT**

**JUDGEMENT**

In this divorce case dated 11th April 2018 the applicant prayed for:

- a) Payment of dowry ( furniture)
- b) The respondent to compensate Her.

The parties were married under Islamic sharia but they were not living together and their marriage has not been consummated.

The respondent works in Dubai he was represented by his sister, namely NAO at the court. The defendant has divorced applicant and both parties agreed on that .

On hearing the plaintiff sought that she failed to pay her debts in installment which she took from her employer (Businesses company of cars) , before their marriage, the reason being that she was a house wife after their Marriage staying with the respondents family including his children.

The applicant said that the respondent promised her that he will find a job for her in Dubai . He Offered her 20k for travelling procedures . The applicant spent the same money to get passport .Unfortunately after 8 months the respondent decided to divorce her without any basic reason. On this basis the applicant filed the case requesting the court to issue orders to compensate her and to get her dowry back.

On other hand the respondent agreed that he had not paid the dowry and when he married her she was jobless. The applicant was not following her respondent's instruction according to the Islamic teachings. In addition to that she was asking for a divorce several times.

I have noted the issue clearly and I found that: When the respondent married her she was jobless as she admitted on interrogation by court. There was no agreement that shows that if the respondent failed to get her a job in Dubai ,the applicant would be compensated by the respondent.

Concerning the dowry if a divorce is issued to the wife before consummation of the marriage and without having been completely alone to in such a manner that consummation of the marriage would have been possible , then she does not have to observe eddah and she is entitled to half of dowry was agreed upon . The Holy Quran 1/237 :  
(*... If you divorce them before touching them, but after you had set the dowry for them, the compensation shall be half the dowry, unless they voluntarily forfeit their rights*)

On this basis I hereby order that:

- 1- The respondent to pay half of the dowry within 30 days from today.
- 2- The divorce certificate to be issued today.
- 3- - The compensation is null and void.

This is orders of this court

R/A 30 days

**Delivered in court this day of 15th May 2018** in the presence of

Court assistant Suleyman

Plaintiff

Respondent