



REPUBLIC OF KENYA

IN THE KADHI'S COURT AT GARSEN

DIVORCE CASE NO 25 OF 2018

HO.....PLAINTIFF

VERSUS

OS.....DEFENDANT

JUDGEMENT

This divorce matter was failed on 31st November, 2018 the applicant prayed for :

- 1 Return of identity card
- 2 Dowry (cow)
- 3 Custody of child

The application of this applicant proceeded ex parte the applicant sought that:

The respondent has been very irresponsible, failed to provide home maintenance he is very cruel, abusive, assaulting beating her . In addition to that he forced her to herding goats. This reasons caused the applicant to eject her matrimonial home to her parents. She views that this marriage has lost meaning and failed.

The respondents took plaintiff's national id card and custody of the child .

To support the issue the applicant availed one witness who testified affirming applicant's claims. The witness said that the respondent failed to appear before this court without any reason and yet already served him through the area chief.

The applicant brought documents from hospital and police station supporting her allegations.

I have noted the issue clearly and I found that the respondent failed to appear before this court. Upon hearing, applicant herein the matters to be determined are:

- (a) Is the honorable court entitled to dissolve the marriage as per applicant's prayers?
- (b) Is the plaintiff entitled to dowry of cow?
- (c) Custody of the child.

Returning to issue (a) It is clear to this court that the view of the evidence adduced by the applicant it is evident that this marriage is not worthy according to the Holy Quran and the Hadith of prophet **SWALLAH ALLAHU ALLYHE WASALLAM** .Allah saying in the holy al Qur'an surat arum verses 21(Among His proofs is that He created for you spouses from among yourselves, in order to have tranquility and contentment with each other, and He placed in your hearts love and care towards your spouses. In this, there are sufficient proofs for people who think.)

Back to issue, (b) Payment of the dowry 1 head of cow. According to Islamic law, the husband to pay dowry as per consent between them about it as clearly in 4/4 (And give women their dowries as a free gift. But if they of themselves be pleased to give you a portion thereof, consume it with enjoyment and pleasure) But unfortunately the respondent has not yet paid.

(c) Custody of the child.

If the defendant is not in good standing with his wife he assaulting her as she stated in the preceding, the custody of their child let it be under the plaintiff.

Given that the plaintiff is pregnancy it will be must to the respondent to pay home maintenance for her until she delivers. As clearly in the Holy Quran surat Atwalaq verses 6 (?????? ?????? ??????? ?????? ?????????????? ?????????????? ?????? ?????????? ??????????????) **And if .they are pregnant, then spend on them till they deliver**

On this basis I hereby order that:

- 1 This marriage is hereby dissolved as requested by the in the way of faskhu.
- 2 That the applicant should wait for the eddah period of three months as from today.
- 3-Divorce certificate to be issued today.
- 4-It is compulsory for the respondent to surrender the applicant's Identity card as soon possible.
- 5- It is compulsory for the respondent to pay one cow as the dowry within 15 days from today.
- 6- Custody of the child is given to the plaintiff and the respondent shall have reasonable access to her.
- 7-It is compulsory for the respondent to pay kshs. 4000/= as maintenance for his child and the plaintiff monthly effect from January 2019.

NB; THE OCS GARSEN TO STAND BY PLAINTIFF HEREIN GET HER RIGHTS.

At Judgement deliver on 13th December,2018 before GURACHO ABDI YUSSUF(Court Assistant) & Plaintiff in Kadhi's Court at Garsen.

Mursal M Sizi

Kadhi