REPUBLIC OF KENYA

IN THE KADHIS COURT AT GARSEN

MATRIMONIAL CAUSE NO 16 OF 2018

SS.....PLAINTIFF

VS

OJ.....DEFENDANT

JUDGEMENT

On 24day of NOVEMBER 2018 the plaintiff herein one **SS** filed a plaint against the defendant **OJ** seeking from this honorable court for:

1- Dissolution of marriage.

2- Dowry of 40000/=

The Proceeding of this suit proceeded ex parte the applicant sought that:

The respondent failed to provide home maintenance, assaulting and threatened to kill her. the applicant sought that she want to dissolve her marriage because the respondent unfaithful . He has an intimate relationship with a girl who used to insulting her on her phone. She views that this marriage has lost meaning and failed. They were blessed with one issue .The applicant sought that her parents advised her to file the cause before this court.

I have noted the issue clearly and I found that the respondent failed to appear before this court, He was served by this court hearing notice on his Mobil phone.

Upon hearing the applicant herein the maters to be determine are:

(a) Is the honorable court entitled to dissolve the marriage as per applicant 's prayers?

b) Custody and maintenance 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 worthily according to the Holy Quran and the hadith of prophet SAW.

Back to issue (b) Custody and maintenance of the children.

The Islamic sharia - has ordered that the custody of the child is responsibility of the mother if the husband divorce her and pays the maintenance for his children. as clear in the holy Qur'an chapter 2 verse 233) ???? ??????? ?? ????? ??????? ????????) (And. And the man to whom the child belongs shall be responsible for their (the mothers') maintenance and clothing according to usage.)

c) Payment of dowry 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 .

On this basis I hereby order that:

1- This marriage is hereby dissolved as requested by the applicantin the way of faskhu.

2- That the applicant should wait for the eddah period of three months starting from today.

3- Divorce certificate to be issued today.

4- It is compulsory for the respondent to pay dowry 40000/= as admitted in his defence statement within 90 days from today 5th December 2018.

5- Custody of the child is given to the plaintiff and the respondent shall have reasonable access to her.

6- It is compulsory for the respondent to pay kshs. 2500/= as maintenance for his child effect from January 2019.

These are orders of this court.

R/A 30 days

Delivered in court in the presence of:

C/A GURACHO ABDILLAH

plaintiff

5/12/2018