



**REPUBLIC OF KENYA**

**IN THE KADHI'S COURT AT MALINDI**

**CIVIL SUIT NO. 36 OF 2015**

**AST.....PLAINTIFF**

**V E R S U S**

**LMA.....DEFENDANT**

**J U D G E M E N T**

The Plaintiff filed her suit on the 4<sup>th</sup> November, 2015 alleging that her husband suspects her of using witchcraft to make him impotent. He is also quarrelsome and denies her conjugal rights. Parties got married on the 1<sup>st</sup> January, 1993 and the marriage was blessed with 6 issues:

1. AL now aged 22 years
2. AL now aged 19 years
3. I L now aged 17 years
4. M L now aged 16 years
5. H L now aged 14 years
6. S L now aged 7 years

The Plaintiff alleges that the defendant does not provide proper maintenance to his family. She is suffering from High Blood Pressure but the defendant is not keen to seek her treatment. She also claims that she was chased from matrimonial home on October, 2015. On the other hand, the defendant is denying having problems with his wife in the past. Things changed after she got employed at M O. He did give her permission to go and work there. When she returned, she was rude to him and developed a strange habit of sleeping with her clothes on. The plaintiff accused her husband of impotency and when confronted, she changed and said he does have an erection but cannot perform. That's why she decided to sleep with her clothes.

When her husband was trying was trying to forcefully get her to bed, she threatened him with a panga. After this incidence, the husband after staying with his wife for 6 months sleeping on the same bed together but cannot access her sexually, he contemplated to assault her when she was asleep. He then decided to call some three elders and ask his wife to take some of her clothes till this matter is settled. The elders were Ali Ngula, Charo Karege and Amina Abdulrahman.

In his submission, he states that he wants his wife back. If she refuses he demands a compensation of Kshs. 24,000/=. In response the Plaintiff alleges to have sent him Kshs. 59,000/= so he has no right to compensation. She is requesting for a dissolution as they have failed to relate well for over 6 months.

After carefully listening to the litigants/spouses and their witnesses, I am convinced that this marriage is irreparable. Spouses have threatened to hurt one another and this is not a healthy situation and it is always better to wreck the happiness of two people than the whole society. Cases of spouses bartering one another are on the increase. To avoid such scenario, I hereby dissolve this marriage immediately. Each party to stay away from the other and the status be maintained concerning the children. No one is to be denied access to visit and see the children.

**ORDERS-**

1. This marriage is dissolved forthwith.

2. Status quo be maintained. Children to remain with their father while with them, he must not decline visitation by their mother.
3. The plaintiff is denied custody of the minors as she is working abroad. She has failed to disclose if the children are mistreated.
4. No orders as to compensation.
5. The furniture to be shared between the defendant and the plaintiff in the ratio 2:1 respectively as the children are with the defendant.
6. The defendant is absolved from paying edda maintenance. He has convinced the court the court that the plaintiff was rebellious.
7. Each party to bear its own costs.

**Read before the parties in the presence of the court assistant Aisha Adam this 11<sup>th</sup> February, 2016.**

**Sgd: Hon. Salim S. Mohamed**

**Kadhi – Malindi**

**11.02.2016**