



**REPUBLIC OF KENYA**

**IN THE KADHIS COURT AT WAJIR**

**DIVORCE CASE NO 85 OF 2015**

**NKN.....APPLICANT**

**HA.....1STRESPONDENT**

**AAA.....2ND RESPONDENT**

**JUDGEMENT**

In this divorce cause dated 2nd JUNE 2015 the applicant prayed for :

- a) divorce and payment of dowry
- b) maintenance
- c) custody of the children be granted to the applicant.

The applicant alleged that the respondent has been very irresponsible denied her conjugal right for length periods.

The applicant claimed that her father in law (father's respondent) was having sexual affairs with her . when her husband is out for animal grazing . The father in law using to threat her life was using this as an advantage until the wife she delivered 2 kids namely M and L.

The applicant stated that she informed the respondent about the issue but the respondent replied that the applicant wants to shame his father and he does not believe it .

The applicant informed the elders area. the elders Ruled on that : (1)the father in-law to pay the plaintiff the total of 60,000/=

- (2) The marriage between the applicant and respondent be dissolved.
- (3) The father in law to transfer a thatched grass house to the area of applicant.

to support the issue the applicant availed one witness namely Am (Applicant's mother) she testified confirming the petitioner's claim.

On the other hand the 1st respondent denied the petitioner's allegations in particular denied that :he has denied the applicant her conjugal right for length period, and he does not believe that if his father can do sexual affairs with her.

The respondent stated that The applicant is disobedient she is not follow his instruction she was going to town without permission , addition to that she loves a person who has a car. For this reason want to dissolve her marriage.

The 2nd respondent denied all the applicant's allegation while at same time he deny that he has sexual with the applicant,and what had been done by the elders Was not fair.

I have noted the issue clearly and I found that the 2nd respondent(Father-in-law) has been problem in this marriage. Regard those elder people surely they cannot charged father in-law to pay 60000 for something he didn't do, this remarks shows something wrong has been done by father in law.

The view of the evidence adduced by the applicant it is evident that this marriage is not worthily according the Holy Quran and the hadith of prophet SWALLAH ALLAHU ALLYHE WASALLAM .

Concerning the Custody and maintenance of the children.

the Islamic Shariah has ordered that the custody of the children is responsibility of the mother if the husband pays the maintenance for his children. as clear in the holy Qur'an chapter 2 verse 233( upon the father is mothers' provision and their clothing according to what is acceptable)

this if the applicant has not yet marry.

On this bases I hereby order that:

1- This marriage is hereby dissolved as requested by the Applicant in the way of KHULUU on condition that the applicant should wait for the

divorce certificate to be issued on 16th April 2016 -2

3- custody of the children is given to the plaintiff and the respondent shall have reasonable access to them.

4- It is compulsory for the 1st respondent to pay ksh 9000/= monthly as Maintenance of the children.

These are orders of this Court.

R/A- 30 Days

read and delivered this 16th day of MARCH 2016 in the presence of Mursal. M . Sizi ----- Kadhi 11

court asistant----- Fatma

Applicant and Respondent.