



**JAO v PK (Miscellaneous Case 304 of 2024)
[2025] KEHC 19119 (KLR) (Family) (17 December 2025) (Ruling)**

Neutral citation: [2025] KEHC 19119 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
MISCELLANEOUS CASE 304 OF 2024
CJ KENDAGOR, J
DECEMBER 17, 2025**

BETWEEN

JAO APPLICANT

AND

PK RESPONDENT

RULING

1. This ruling is on an application dated 10th December, 2024 filed by the Applicant that seeks the recognition and adoption of a decree on dissolution of marriage issued in the United States of America.
2. The background of the matter is that the Applicant and the Respondent, who are Kenyan Citizens, married on 2nd July, 2010 at Iselin, New Jersey, USA, through a civil marriage. They also held a customary marriage on 26th December, 2011 at Kisumu, Kenya.
3. The marriage broke down, and it was dissolved on 22nd May, 2023, pursuant to a decree of dissolution issued by the Superior Court of New Jersey, Essex County, Chancery Division, Family Part, Docket No. FM-07-1377-21, Civil Action.
4. The parties are currently domiciled in the USA.
5. The Respondent filed a replying affidavit in which he acknowledges both the existence of the marriage and its subsequent dissolution. In his affidavit, he asked the Court to confine the recognition and adoption to the dissolution of the marriage between the parties that was performed under the laws and Jurisdiction of Kenya. Further, that within those confines, that the matters of property, maintenance, child custody, access, and child support be addressed in separate proceedings.



6. The Respondent contends that he paid nine heads of cattle as dowry for the customary marriage and that under Luo Customs, six should be returned to facilitate its dissolution and ensure that the recognition of the foreign decree is complete.
7. The issue for determination is what orders the Court should issue regarding the application for recognition and adoption of the foreign judgment.
8. The *Marriage Act* is the special law governing issues pertaining to marriages and divorce in Kenya.
9. Section 67 provides for the recognition of a decree by a foreign Court in matrimonial proceedings and states as follows;

“Where a foreign court has granted a decree in matrimonial proceedings whether arising out of a marriage celebrated in Kenya or elsewhere, that decree shall be recognized in Kenya if -

 - (a) either party is domiciled in the country where that court has jurisdiction or had been ordinarily resident in Kenya for at least two years immediately preceding the date of institution of proceedings; or
 - (b) being a decree of annulment, divorce or separation, it is effective in the country of domicile of the parties or either of them”
10. From the material available to the Court, the decree was issued and sealed by the Superior Court of New Jersey. There is also evidence, by the parties' acknowledgement, that they were domiciled in the country in which the decree was issued.
11. The decree has an annexed Property Settlement Agreement, which the Family Court that issued the decree confirmed was entered into freely and voluntarily by both parties. The Court also stated that this agreement was incorporated into the divorce judgment at the parties' request.
12. After confirming that the decree meets the recognition threshold, the next issue to examine is whether the Respondent's concerns regarding Luo customs should impact the decree's recognition.
13. The parties first married under Civil Law in the United States, where they completed all necessary legal requirements to formalize their union. Thereafter, they decided to hold a customary marriage ceremony in Kenya, in accordance with Luo customary traditions. The civil marriage remains the primary legal form of recognizing their union, and the recognition and adoption of the decree of dissolution is not contingent on the performance of any cultural obligations.
14. The Respondent has pointed out that, following the Court's dissolution of the marriage, a separate process was initiated under Luo customs pertaining to the cultural practices surrounding marital dissolution. The claim for the return of dowry is regarded as a separate issue. It cannot be addressed within this miscellaneous cause, which focuses on the recognition and adoption of the decree of dissolution of the marriage by the New Jersey Court.
15. Likewise, matters concerning child custody, maintenance, and property issues must be resolved through separate proceedings and are not within the scope of this present forum, which focuses on the recognition of the foreign decree.
16. The application dated 10th December, 2024 is allowed. The Court hereby recognizes and adopts the decree of dissolution of marriage issued on 22nd May, 2023 to the Applicant and the Respondent in the United States of America, Superior Court of New Jersey, Essex County, Chancery Division, Family Part, Docket No: FM – 07 – 1377 – 21, Civil Action.



17. I make no order on costs.

18. It is so ordered.

**DATED, DELIVERED AND SIGNED AT NAIROBI THROUGH THE MICROSOFT TEAMS
ONLINE PLATFORM ON THIS 17TH DAY OF DECEMBER, 2025.**

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C. KENDAGOR

JUDGE

In the presence of:

Court Assistant: Beryl

