

REPUBLIC OF KENYA

IN THE KADHIS COURT AT KISUMU

DIVORCE CASE NO 24 OF 2014

TKI.....APPLICANT

VS

JWK.....RESPONDENT

JUDGEMENT

In this divorce cause filed on 18th AUG . 2014 the petitioner prayed for:

1- Divorce

2- Divorce certificate to issue

3- maintenance on the child as per his means

The Proceeding of this suit proceeded inter parties the applicant sought that: He married the defendant in accordance with Islamic law the year 2008 at embarkas mosque Nairobi a marriage which was contracted by Imam sheikh Hassan and her dowry was ksh 20000/= which has been paid . Their marriage has been blessed with one child namely IK aged 4 years old .

The applicant alleged that their marriage has never been a bed of roses as they have had number of fights and violence in addition to that the respondent twice held a knife and threatened to stab him .

The applicant claimed that the respondent has also denounced the Islamic religion and this makes it difficult for the plaintiff to continue staying with her as it contradicts the Islamic teaching .

To support the matter the petitioner availed one witness, namely sheikh Hasan imam of embarkas mosque he testified confirming the petitioner's claim in respect of the performs of nikah.

on the other hand the respondent totally denied all applicant's allegation and claimed that she has never been a Muslim and has never performed nikah and there is no money given to her as dowry. They have been living (come we stay) type of relationship as per respondent's allegation.

I have noted the matter clearly and I found that the p w 1 failed to proof the nikah because he didn't know date and the year of the marriage in addition to that the applicant didn't bring the tow witnesses who were present in the nikah as necessary in any Islamic marriage. he has not produce any legal documents indicating the marriage was contracted according to Islamic law the burden of proof is upon the plaintiff and not the defendant . further the respondent claimed they were staying as friends and not as husband and wife .

The view of this court is that this marriage is not worthily according to Islamic law so that all the consequent of this marriage this court has no jurisdiction to determine the mater and less proved otherwise . that's all.

R/A 30 days

Delivered in court is 17th day of march 2014 in the presence of

Mursal M Sizi kadhi

Court assistant Rehema Akidah

plaintiff