

**IN THE HIGH COURT OF TANZANIA**  
**TEMEKE HIGH COURT SUB-REGISTRY**  
**(ONE STOP JUDICIAL CENTER)**  
**AT TEMEKE**

**MATRIMONIAL CASE NO. 1 OF 2021**

**DEOGRASIA GEOFFREY MWANRI.....PETITIONER**

**VERSUS**

**PANCRAS ATHANAS MASAWA.....RESPONDENT**

Date of Last Order: 18/11/2021

Date of Judgment: 18/11/2021

**CONSENT JUDGMENT**

**N.R. MWASEBA, J.**

The petitioner has filed this suit against the respondent before this court claiming for a declaration that the marriage between the petitioner and the respondent has irreparably broken down, an order to dissolve the said marriage and a decree of divorce to be issued.

It is pleaded by the petitioner that they cohabited with the respondent and lived together as husband and wife for 18 years before formalizing

the marriage on the 22<sup>nd</sup> July, 1995 at Ilala District in Dar es Salaam. In their relationship, they were blessed with six issues who passed away at their tender age.

During the subsistence of their marriage, they acquired two houses situated at Keko Molem, beds, mattress and utensils but she does not demand any division of the matrimonial property.

That, the parties lived a peaceful life until 1997 when problems began cropping up. It is said that their marriage was clouded up with cruelty whereby the petitioner was getting beaten up by the respondent and being called by abusive words such as *malaya* in the presence of friends and relatives as a result their cohabitation became intolerable. Due to the matrimonial disharmony, the petitioner left the matrimonial home in September, 1997, and the two have had a separate life for the last twenty-four years now. The Conciliation Board at Keko ward failed to reconcile them.

In his reply to petition for divorce, the respondent did not dispute that their marriage has broken down irreparably and that the decree of divorce should be granted.

In court, the petitioner was represented by Mr Levis Lyimo learned counsel while the respondent appeared in person. When the matter was called up for mention on 18/11/2021 the counsel for the petitioner notified the court that the respondent has filed his reply and the main issue in this case which is divorce is not disputed. He referred this court to the case of **Joseph Warioba Butiku V. Perucy Muganda Butiku**, (1987) TLR No. 1 and prays that the court grants divorce as prayed.

In his reply, the respondent conceded with the submission by the petitioner and insisted on the fact that their marriage has irreparably broken down. He stated that it is 24 years now since his wife left their matrimonial home. So, he prays that the decree of divorce be granted.

I have gone through the pleadings, and the submissions of both sides and realized that there is no dispute that their marriage was clouded up with cruelty especially by beatings in which church elders and the respondent's parents failed to reconcile them. Further, there is no dispute that the parties have separated for 24 years now and the marriage conciliation board at Keko ward has failed to reconcile them. Additionally, there is no dispute that their marriage has broken down irreparably. In the case of **Joseph Warioba Butiku V. Perucy Muganda Butiku (Supra)** in which both parties pleaded that their

marriage had irreparably broken down and prayed for divorce it was held that:

*"Where the parties have agreed on sufficient issues of fact and law raised in their pleading, the court may pronounce judgement and order accordingly."*

That being the legal position and considering that the parties are living apart for 24 years and that the claim for divorce has not been contested, I hereby declare that the marriage has broken down irreparably and proceed to grant the decree of divorce as prayed. No order as to costs.

**DATED at DAR ES SALAAM this 18<sup>th</sup> Day of November, 2021.**



*N.R. Mwaseba*  
**N.R. MWASEBA**

**JUDGE**

**18/11/2021**