

UGANDA / JUDGMENT

Ali v Khan (C.C. 15/1929 (Msa.))

[1929] EACA 104 (1 January 1929)

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COURT

East African Court of Appeal

BEFORE

Stephens, J

CASE / FILE NUMBER

C.C. 15/1929 (Msa.)

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DIVORCE JURISDICTION.

Before STEPHENS, J.

BIMOTO BÍNTI ALI

 $\mathbf{v}$ DR. CHUR KHAN.**C. C. \$15/1929\$ (Msa.).**

Mohammedan Law-divorce on the grounds of desertion and failure to supply maintenance.

Held: - That on proof by the petitioner that her husband had left her for three years without maintenance she was entitled to a divorce.

The petitioner was a Beluchi Mohammedan woman living at Makadara, Mombasa, and the respondent was an Indian Mohammedan. Substituted service was effected by affixing one copy of the summons on the last-known place of residence of the defendant in this Colony and one copy on the Court notice board. The summons was also sent for service in India but was received back unserved.

At the hearing the Chief Kathi was called in to assist the Court. The Chief Kathi intimated that he required two witnesses to prove that when the respondent left the petitioner he left her without any provision and had not provided for her. Two witnesses were called accordingly.

JUDGMENT-(The Chief Kathi being present).-The petitioner has proved by the mouth of two witnesses that she was left without maintenance by her husband for the last three years, and when she takes her oath that her husband left her without maintenance for three years she is entitled to divorce.

Petitioner has taken an oath that she has received no maintenance for three years and that she is entitled to maintenance.

The Chief Kathi states he now dissolves the marriage between the parties, for the reason that no maintenance was provided for the petitioner by the respondent, and according to the evidence it has been proved that the respondent has no property here.

Marriage dissolved.

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