**Damji v Damji**

**Division:** High Court of Kenya at Nairobi

**Date of judgment:** 22 May 1974

**Case Number:** 77/1972 (11/75)

**Before:** Miller J

**Sourced by:** LawAfrica

*[1] Muslim law – Matrimonial causes – High Court has jurisdiction to hear – Mohammedan Marriage,*

*Divorce and Succession Act* (*Cap.* 156), *s.* 3 (*K.*).

*[2] Muslim law – Matrimonial causes – Procedure – Petition incorrect and struck out – Mohammedan*

*Marriage, Divorce and Succession Rules, r.* 2 (*K.*).

**Editor’s Summary**

The petitioner and the respondent were married by muslim ceremony. The wife filed a petition for judicial separation. The husband contended that the court had no jurisdiction to hear a petition and that the proper procedure had not been followed.

**Held –**

(i) the court has jurisdiction to grant matrimonial relief to muslims;

( ii) application by petition is incorrect (*E. v. E*. (5) considered).

Petition struck out.

**Cases referred to Judgment:**

(1) *R. v. Loxdale* (1758), 1 Burr 447; 97 E.R. 394.

(2) *Sutton v. Sutton* (1883), 22 Ch.D. 511.

(3) *Goldsmiths Co. v. Wyatt*, [1907], 1 K.B. 95.

(4) *Mohamed v. Bimji* (1956) 23 E.A.C.A. 369.

(5) *E. v. E*., [1970] E.A. 604.