



**Q v Q (Divorce Cause E007 of 2020) [2022] KEHC 323 (KLR)  
(Family) (22 April 2022) (Judgment)**

Neutral citation: [2022] KEHC 323 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)  
FAMILY  
DIVORCE CAUSE E007 OF 2020  
MA ODERO, J  
APRIL 22, 2022**

**BETWEEN**

**AQ ..... PETITIONER**

**AND**

**RQ ..... RESPONDENT**

**JUDGMENT**

1. Before this Court is the Petition dated 14<sup>th</sup> September 2020 by which the Petitioner AQ sought for orders THAT:-
  - a. The marriage between the Petitioner and the Respondent be dissolved.
  - b. There be no orders as to cost.
  - c. Any other relief this Honourable court deem fit to grant.”
2. The Respondent RP filed an Answer to the Petition and a cross-petition dated 20<sup>th</sup> May 2021. In her cross-petition the Responded sought the following orders:-
  - a) " That the marriage between the Petitioner and the Respondent solemnized on 13<sup>th</sup> April 1996 be dissolved.
  - b. That the Petitioner and the Respondent will have no claims whatsoever, against each other, financial or any other, during the pendency of the matrimonial proceedings and after the marriage is dissolved.
  - c. That any other or further relief this Honourable court deems fit maybe granted.
  - d. THAT each party to pay their own costs.”



3. The matter proceeded by way of oral evidence on the online platform.
4. The Petitioner told the court that he and the Respondent got married to each other on 13<sup>th</sup> April 1996 in the United Kingdom at a ceremony solemnized at the Portman Hotel, Westminster, A copy of their marriage certificate serial No. xxxxx appears as Annexure 'A' to the Petition.
5. The couple initially cohabited in the United Kingdom. They later relocated to Kenya where they set up their home at 126 Manyani East Road in [Particulars Withheld].
6. The petitioner stated that their union was blessed with two (2) daughters, namely:-
  - (i) RQ – born on 14/10/1999
  - (ii) JQ – born on 19/2/2002
7. The couple separated in the year 2007 when the Petitioner moved out of the Matrimonial home. He states that they have grown apart and that none of them is willing to continue in the marriage. That they are now living totally separate lives hence this petition for Divorce.
8. The Respondent in her Reply confirmed that she got married to the Petitioner in the year 1996. She confirmed that their union was blessed with two (2) beautiful daughters both of whom are now adults.
9. The Respondent confirms that the Petitioner left the matrimonial home in the year 2007 and states that there has been no union between them since that time. The Respondent states that the marriage has irretrievably broken down and that there exists no possibility of reconciliation. She too wishes to have the marriage be dissolved.
10. I have considered this Petition, the Answer and the cross-Petition filed in reply as well as the evidence adduced by the parties.
11. The parties herein had entered into a civil marriage. Section 66 of the *Marriage Act* 2014 provides for the dissolution of a civil marriage as follows:-

“

- “ 66. A party to a marriage celebrated under Part IV may only petition the court for the
  - (1) separation of the parties or for dissolution of the marriage unless three years have elapsed since the celebration of the marriage
  - (2) A party to a marriage celebrated under Part IV may only petition the court for the separation of the parties or for the dissolution of the marriage on the following grounds-
    - (a) adultery by the other spouse;
    - (b) cruelty by the other spouse;
    - (c) exceptional depravity by the other spouse
    - (d) desertion by the other spouse for at least three years; or
    - (e) the irretrievable breakdown of the marriage.” (own

**emphasis)**



12. The parties herein got married in April 1996. This petition was filed in September 2020, therefore more than three (3) years have elapsed since the celebration of said marriage and accordingly the Petition fulfils the requirements of section 66 (1).
13. The Applicant states that he moved out of the matrimonial home in January 2007. This is confirmed by the Respondent. Thus there has been no cohabitation between the parties for over fourteen (14) years, clearly, the companionship and intimacy expected from a marital union no longer exists.
14. Both the Petitioner and the Respondent state that they have grown apart. That neither wants to remain in the marital union. The couple decided to separate in a civil manner. Their two daughters are both adults and neither party is making any demands against the other.
15. It is clear that this is a union which has irretrievably broken down. The parties both state that there exists no possibility for reconciliation. It serves no purpose for the parties to remain shackled to a marriage that neither wants.
16. I find that the marriage between the Petitioner and the Respondent has broken irretrievably. I therefore allow this Petition for Divorce. Decree Nisi to issue to be made absolute within thirty (30) days. Each party to pay their own costs.

**DATED IN NAIROBI THIS 22ND DAY OF APRIL 2022.**

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**MAUREEN A. ODERO**

**JUDGE**

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