



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

DIVORCE CAUSE NO. 146 OF 2013

BETWEEN

G M KPETITIONER

AND

J C KRESPONDENT

JUDGEMENT

1. On 3rd March, 2006 the Petitioner, then a bachelor known as G M K was lawfully married to the Respondent J C K, then a spinster and a certificate Serial No. **[Particulars withheld]** issued to them in accordance with the **Marriage Act Cap 150 Laws of Kenya**. The marriage was celebrated at the Registrar's office, Nairobi and thereafter they cohabited as husband and wife in Parklands in Nairobi. They have no issue of the marriage. Both the Petitioner and Respondent are domiciled in Kenya and work in Nairobi where the Petitioner is a medical doctor and the Respondent is a Customer Care Executive with **[particulars withheld]**.
2. On 23rd July 2013 the Petitioner filed a petition premised on grounds of cruelty and desertion. The Petitioner set out the particulars of cruelty which he alleged was visited upon him by the Respondent. He averred that upon marriage, they lived happily for a few months until July 2006 when the Respondent denied him his conjugal rights and withdrew from cohabitation with the Petitioner without consent. It is his prayer therefore that the marriage between them be dissolved.
3. The Petition is supported by his verifying affidavit sworn on 5th July 2013, in which he reiterated the contents of his Petition.
4. Upon service the Respondent filed an answer to the petition, in which she denied all the allegations of cruelty stated in the Petition. She stated that the Petitioner is the one who abandoned and deserted her and their matrimonial home at the onset of the union. That he is now married with one child and resides at Donholm estate, a fact he admitted in his petition. That as a result of desertion, she has suffered gravely, psychologically, emotionally and physically. In her view the marriage between her and the Petitioner has irretrievably broken down and should be dissolved.
5. On 12th December 2014 the Deputy Registrar certified that the matter was suitable to proceed for hearing as a defended cause for one day in Nairobi. At the hearing on 12th March 2015 the Petitioner reiterated the grounds set out in his petition and the Respondent opted to adopt and rely on her answer to the petition.

6. Both the Petitioner and the Respondent confirm that this Petition and answer to petition have not been presented or prosecuted in collusion with one another, neither have they connived or condoned the acts of cruelty and desertion which they have complained of. They also certify that there have been no previous proceedings filed regarding the marriage.
7. From the foregoing it is my considered view that it is safe to make a finding that the marriage between the Petitioner and the Respondent has irretrievably broken down and has no hope of being salvaged. The parties have lived apart for a period close to nine years and there is no evidence of any attempt at reconciliation, or to salvage the marriage.
8. In the premise the orders which do commend themselves to the circumstances of this case are as follows:
 - a. That the marriage celebrated between the Petitioner and the Respondent at the Registrar's office in Nairobi on 3rd March, 2006, is hereby dissolved.
 - b. That Decree Nisi dissolving the said marriage is hereby issued, to be made absolute thirty (30) days from the date of this judgment.
 - c. There shall be no orders as to costs.

SIGNED DATED and DELIVERED in open court this **21st day of May 2015.**

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L. A. ACHODE

JUDGE