

REPUBLIC OF KENYA

High Court at Nairobi (Nairobi Law Courts)

Divorce Cause 192 of 2011

J.W.G.....PETITIONER

VERSUS

E. N.C.....RESPONDENT

J U D G M E N T

The Petitioner and the Respondent started cohabiting together as husband and wife on 28th September 1991. They formalized their marriage on 6th November 1992 when they were married at the Registrar's office in Nairobi. The marriage was blessed with two (2) issues both of who are now adults. According to the Petitioner, since the celebration of the said marriage the Respondent had treated her with cruelty. In particular she stated that the Respondent had neglected his parental and familial duties by failing to provide basic needs to the Petitioner and the children of the marriage. She accused the Respondent of committing adultery with various women that she particularized in the petition for divorce. She stated that she had been separated from the Respondent since September 2011. According to the Petitioner, her marriage to the Respondent had irretrievably broken down with no possibility of salvage.

Upon being served with the petition, the Respondent filed an answer to the petition. He denied the allegations made by the Petitioner which was to the effect that he had been guilty of the matrimonial offences of cruelty, desertion and adultery. In regard to all those allegations, the Respondent put the Petitioner to strict proof thereof. The Respondent cross petitioned for divorce. He averred that the Petitioner had deserted from the matrimonial home from the 1st of June 2008. He further accused the Petitioner of treating him with cruelty. He averred that on various dates between 2006 and 2007, the Petitioner went home while drunk and refused to show him love and affection. The Respondent stated that the Petitioner denied him his conjugal rights and consortium. In the premises therefore, the Respondent urged the court to grant his cross petition for divorce.

At the hearing of the petition, this court heard oral evidence adduced by the Petitioner. The Respondent did not offer any evidence. This court read the pleadings filed by the parties to this petition for divorce. The court has also considered the evidence that was adduced by the Petitioner in support of her petition for divorce. From the evidence adduced, it was clear that the marriage between the Petitioner and the Respondent has indeed irretrievably broken down with no possibility of salvage. The accusations and counter accusations of cruelty and infidelity are sufficient proof that the marital relationship between the Petitioner and the Respondent has deteriorated. There is no love lost between the Petitioner and the Respondent. The Petitioner and the Respondent do not trust each other to sustain the marriage. The Petitioner and the Respondent are no longer living together. They have been separated for nearly two years. This court formed the view that indeed the matrimonial offence of desertion has been proved to the required standard of proof on a balance of probabilities. This court will grant petition for divorce.

In the premises therefore, the marriage solemnized on 6th November 1992 between the Petitioner and the Respondent at the Registrar's Office in Nairobi is hereby dissolved. Decree nisi dissolving the said marriage is hereby issued. The decree nisi shall be made absolute three (3) months from the date of this judgment. There shall be no orders as to costs.

DATED AT NAIROBI THIS 19th DAY OF APRIL, 2013

L. KIMARU

JUDGE