

REPUBLIC OF KENYA

High Court at Nairobi (Nairobi Law Courts)

Divorce Cause 65 of 2009

S.K

.....**PETITIONER**

VERSUS

D.M.K.....

.....**RESPONDENT**

J U D G M E N T

The Petitioner and the Respondent were married on 27th August 1977 at the Registrar’s office in Nairobi. The marriage was blessed with three (3) children. All the three children are now adults. According to the Petitioner, the said marriage has not been a happy one. She avers that since the celebration of the marriage, the Respondent had treated her with cruelty. In particular, she states that the Respondent had verbally and physically assaulted her. She accuses the Respondent of failing to financially support her and the children of the marriage. She states that the Respondent had neglected her and the children of the marriage during the period that the Respondent had gone for further studies in the Netherlands. She avers that because of the breakdown of the marital relationship, she left the matrimonial home on 9th March 1992. Since then, she has been separated from the Respondent. In the premises therefore, the Petitioner urged the court to find that her marriage to the Respondent had irretrievably broken down with no possibility of salvage. She urged the court to grant her petition for divorce.

When the Respondent was served, he entered appearance and duly filed an answer to the petition. The Respondent denied the allegation made by the Petitioner that he had treated her with cruelty. In that regard, he put the Respondent to strict proof thereof. He denied the allegation that he had neglected the Petitioner and the children of the marriage when he was undertaking his further studies in the Netherlands. He further denied the allegation that he had failed in his duties as a husband during the subsistence of the marriage. He put the Petitioner to strict proof thereof. He urged the court to find that the Petitioner had failed to establish a suitable case for this court to grant her petition for divorce.

During the hearing of the Petitioner, it is only the Petitioner who was present in court. She reiterated the contents of her petition. She told the court that she had been separated from the Respondent in 1992 when the Respondent had persisted in treating her with cruelty. He accused the Respondent of being an alcoholic. She further stated that the Respondent had not financially supported her and the children of the marriage. The last time she communicated with the Respondent was in 2006. She urged the court to grant her petition for divorce. This court has carefully considered the facts of this divorce cause. It was clear to the court that the marriage of the Petitioner and the Respondent has indeed irretrievably broken down with no possibility of salvage. According to the Petitioner, she left the matrimonial home in 1992 and had since then been separated from the Respondent. This is a period of more than twenty (20) years. If the couple were to be reconciled, then in the intervening period such reconciliation ought to have been attempted. It was apparent that both the Petitioner and the Respondent have moved on with their respective lives. This court holds that the Petitioner established the ground of divorce of cruelty and desertion. The court will therefore grant the petition for divorce craved for by the Petitioner.

In the premises therefore, the marriage celebrated on 27th August 1977 at the Registrar’s Office, Nairobi between the Petitioner and the Respondent is hereby dissolved. Decree nisi dissolving the said marriage is

hereby issued. The decree nisi shall be made absolute thirty (30) days from the date of this judgment. There shall be no orders as to cost.

DATED AT NAIROBI THIS 18th DAY OF APRIL, 2013

L. KIMARU

JUDGE