



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

DIVORCE CAUSE NO.29 OF 2010

C.M.K.....PETITIONER

VERSUS

T.N.K.....RESPONDENT

J U D G M E N T

1. The Petitioner herein, C.W.K. started co-habiting with the Respondent, T.N.K. in April 1989 and in 1997, they solemnized their marriage at the Registrar's Office in Nairobi.
2. During their cohabitation and marriage they got three (3) issues born in 1990, 1991 and 2000 respectively. His prayer is that the marriage between them should be dissolved for reasons of desertion, cruelty and adultery on the part of the Respondent. The particulars thereof are as follows;

“Desertion;

On or about the 2nd day of July 2008 the Respondent left their matrimonial home on allegations that she was going to visit her elder sister so that they could visit their father who was sick but the Respondent after departing switched off her mobile phone. The Petitioner looked for her in all places including Hospitals and Mortuaries to no success. The Petitioner reported the Respondent's disappearance at Bururubu Police Station and the same was entered on the occurrence Book at the said station. The Respondent after the second week called one of her sisters and informed her that she was safe and well and that nobody should look for her. The Respondent only returned on 23rd August 2008 and totally refused to disclose the Petitioner where she was from 2nd July 2008 to 23rd August 2008.

Cruelty;

- a) *Coming home late at night as from 9.00 p.m. onwards up to the following morning and offering no good explanation of her lateness.*
- b) *Coming home totally drunk and unable to control herself.*
- c) *Taking of alcohol even against the advice from the doctor not to take the same reason being that she suffers from Epilepsy.*
- d) *Taking beer during the day with other men and with unmarried women at the petitioner's residence when the petitioner is away for work.*
- e) *Misusing the money left to her by the Petitioner and which amount is meant for children by buying beer to her make friends and unmarried women. (sic)*
- f) *Abusing the Petitioner before friends and before their children some of whom are already grown ups.*

Adultery:

- a) *On diverse dates in the month of December 2009 the Respondent came thrice to their matrimonial home totally drunk and in the morning claiming that she was coming from a party with other unmarried women.*
- b) *On late December 2009, the Respondent was seen coming out of a lodging along Jogoo Road with a man holding each other along the waist and kissing one another in public.*
- c) *on or about 26th January 2010 at about 1.30 p.m. the Petitioner met the Respondent with a man by the name of P.M taking beer at the petitioner's home while holding each other.*
- d) *On the same date that is on 26th January 2010, the Petitioner also learned that the Respondent had another boy friend by the name Mr. K a person whom the Respondent had been seen together in different pubs and lodgings within Nairobi. This incidence was also witnessed by the Respondent's sister and the Petitioner's brothers and the same was reported and booked at Buruburu Police Station as OB 23rd, 26th January 2010. (sic)*
- e) *On 10th February 2010 the Respondent deserted her Matrimonial home, carried away all the Petitioner's household items all valued at about Kshs.857,000/- and went to live at unknown place and left behind the children with nothing to depend on."*

3. The Respondent although served did not respond to the Petition nor did she attend Court during the hearing and so the allegations above have not been traversed nor denied at all. I have no choice but to believe the evidence as tendered by the Petitioner.

4. The above being the case, I am inclined to grant the Petitioner his prayer that his marriage to the Respondent be dissolved. The decree nisi shall issue forthwith and the same to be made absolute within

thirty (30) days hereof.

5. Since the Cause is undefended, I shall make no order as to costs.

6. Orders accordingly.

DATED, DELIVERED AND SIGNED AT NAIROBI THIS 13TH DAY OF JANUARY, 2012.

CORAM

ISAAC LENAOLA

JUDGE

Miron – Court Clerk

Mr. Kimani for Petitioner

ORDER

Judgment duly read.