



H.C.L..... PETITIONER

VERSUS

Z.B.L..... RESPONDENT

JUDGMENT

This petition is dated 22nd February, 2011 and was filed in Court on 23rd February, 2011. The Petitioner thereby seeks from the Court the following orders –

- (a) *That the marriage between the Petitioner and the Respondent be dissolved.*
- (b) *That the Petitioner be granted sole custody, care and control of all the children of the marriage until they attain the age of majority.*
- (c) *The Respondent be ordered to contribute towards the children's maintenance.*
- (d) *The Respondent be ordered to refrain from harassing the Petitioner.*
- (e) *That the Respondent be condemned to bear the costs of this cause.*
- (f) *Any further or other relief that this Honourable Court may deem just and fit to grant to the Petitioner in the circumstances.*

Although the Respondent was duly served by substituted service by advertisement in a Daily Newspaper, she neither entered appearance nor filed any response. This prompted the Deputy Registrar to certify the matter for listing and hearing as an undefended cause. At the hearing, Mrs. Kalsi held brief for Ms. Muhanda for the Petitioner. The Petitioner told the Court that the Respondent was his wife. They married in June 1996 and that he currently works for the (*particulars withheld*) as an ICT officer. After the marriage, the couple lived in Congo, Pakistan, Mozambique, Senegal and now in Kenya where the family has been based since 2007. The Respondent left on 15th December, 2009 and there are four children of the marriage aged 14, 13, 9 and 7.

The Petitioner seeks divorce because his wife has been very cruel to him. His evidence in Court was that when he got married, he was expecting to get a loving hand. However, he never got any love from his marriage. His wife used to criticize him publicly and became a divisive element in the Petitioner's home, thereby causing rifts between the Petitioner and his mother and his siblings. In his absence, she would call people and tell them how much she was suffering. She would also question whether he was a man during parties and within the hearing of other people. At on point, he got depressed and was hospitalized but she never went to see him.

Sometimes she would leave the matrimonial home for days and when she came back on one of those occasions, and he asked her where she had been, she picked a chair and hit him. On another occasion he called her from Sudan and when he asked to speak to the children, she switched off her phone. Sometimes he would call the kids on the landline and they would tell him that their mother had not been around for

some time.

On one occasion in 2003, he came back from Iraq and found reports circulating that the Respondent was cohabiting with the Chancellor of Congo in Mozambique. He got this information from the guards who were recording in and out movements of vehicles to their compound. When he was in the U.S.A., she engaged in lesbianism. It was alleged that she was moving with her supervisor and she was caught many times in compromising positions with colleagues.

While in Mozambique, she asked her uncle who was in intelligence to kill him, and the uncle confessed this to the Petitioner. The Respondent also accused the Petitioner of having an affair with their 12 year old daughter which was all lies. She also wrote to the Petitioner's employers in Rome and in Kenya accusing him of harassing her and failing to maintain her while, all along, she had all the credit cards he had given to her. The Petitioner tried to reconcile by bringing the Respondent's mother to come and counsel her, but the Respondent never cooperated. She has accused the Petitioner of many offences which are lies for she is a pathological liar and uninterested in marriage. The Petitioner therefore seeks divorce, custody and care of the children.

As indicated earlier, this petition is undefended and the Petitioner's word has gone unchallenged. From the evidence adduced in Court, I find and hold that the allegations levelled against the Respondent make it abundantly clear that she was out to offend the Petitioner at any given opportunity and at any cost by leveling all manner of accusations at him. It would be a very serious matter if the Petitioner were having an affair with his own daughter. But she failed to come to Court and prove or substantiate such serious allegations. In sum, I find and hold that the Respondent's conduct resulted in mental cruelty to the Petitioner for which the latter is entitled to divorce. I accordingly make the following orders –

1. ***The marriage between the Petitioner and the Respondent be and is hereby dissolved.***
2. ***Decree nisi to issue.***
3. ***The decree nisi to become absolute after 90 days upon the application of either of the parties.***
4. ***The Petitioner be and is hereby granted custody, care and control of the children of the marriage until they attain the age of majority.***

I don't think it is either fair or proper to grant any of the orders sought at this juncture.

Orders accordingly.

DATED and DELIVERED at NAIROBI this 15th day of March, 2012.

L. NJAGI
JUDGE