



J. W. K.....PETITIONER

VERSUS

C. K. S.....RESPONDENT

JUDGMENT

The Petitioner herein JWK got married to the Respondent CKS in 1986 at the D.O's office Nyahururu. The Petitioner and the Respondent were issued with a Marriage Certificate No. {*particulars withheld*} which she produced in court and it was marked PExb No. 1. It showed the Petitioner was a Spinster and the Respondent a Bachelor when they got married. The Petitioner lived with the Respondent in {*particulars withheld*} from 1986 to 1988. They then moved to {*particulars withheld*} in 1990 and then to {*particulars withheld*} in 1998.

The Petitioner testified that they were blessed with two issues of the marriage.

- (1) K. K. aged 28 years; and
- (2) N. M. K. aged 26 years.

The Petitioner testified that in 1998 to 1999 she went to {*particulars withheld*} for an assignment. When she came back from {*particulars withheld*} in May 1999 she settled in {*particulars withheld*} whereas the Respondent was then living in {*particulars withheld*}.

The Petitioner opted to live in {*particulars withheld*} because the two parties had a problematic relationship. The problems arose due to the fact that the Respondent had an adulterous relationship with one W. M. with whom the Respondent had a child with.

The Respondent also had another adulterous relationship with J. A. with whom he had two children.

The Petitioner gave evidence that they had been separated from 1999 to date which amounts to twelve (12) years in total.

The Petitioner prays for dissolution of marriage on the grounds of adultery and cruelty and says the Respondents conduct had subjected her to emotional stress and mental anguish.

The Petitioner also prays for dissolution of the marriage on the grounds of desertion and that the marriage has completely broken down and is not salvageable.

In conclusion the Petitioner states that she has not colluded with the Respondent to bring the Petition nor did she accept what the Respondent had done nor were there any other proceedings relating to the divorce in any other court. The Petitioner also prayed for costs.

The Respondent was absent at the hearing of the Petition and had chosen not to contest the Petition

but was represented by Mr. Mukabale who was present.

The Petitioner was cross examined by Counsel for the Respondent and in cross examination she said that when she came from *{particulars withheld}* she came through the Namanga border and went directly to *{particulars withheld}* and settled in *{particulars withheld}*. The Respondent was at that time staying in *{particulars withheld}* and both children were in boarding school. The Respondent visited the Petitioner's house in *{particulars withheld}* several times but she never went to *{particulars withheld}* where the Respondent resided.

She gave evidence that she made several attempts to reconcile but the Respondent rejected the attempts. In cross examination she reiterated the fact that she was not the one who deserted the Respondent and that she had not wished for the breakdown of the marriage. That the Respondent had moved on with his life and established another home and it was her desire to move on with her life.

The Respondent's case was closed without him neither testifying nor calling any witnesses.

After hearing the Petitioner's evidence I find that the issues for determination are desertion, dissolution of the marriage and costs.

From the evidence adduced it is evident that the Petitioner and the Respondent have not lived together since 1999 approximately 12 years. The Petitioner blames the Respondent for having deserted her and the said Respondent has established another home with J. A. and has two (2) issues from the said union.

The court is satisfied that desertion has been established as the parties have not lived together for a period of over twelve (12) years.

The court is equally satisfied that the marriage has irretrievably broken down due to the Respondent's various relationships with other women and the marriage is not salvageable as the parties have moved on with their lives and established new homes.

The Petition for divorce is granted. Decree nisi to issue forthwith and Decree absolute to issue after three (3) months have lapsed.

On the issue of costs the Respondent to bear the costs of the Petition.

Dated and delivered at Eldoret this 8th day of June 2012.

A.MSHILA

JUDGE

Coram:

Before Hon. A. Mshila J

CC: Andrew

Counsel for Petitioner Karuga holding brief for Kiptoo

Counsel for Respondent Alwanga for Mukavale

A.MSHILA

JUDGE