



E.J.K.....PETITIONER
AND
M.K.A. C.....RESPONDENT

JUDGMENT

In her petition filed on 20th July, 2011, **E.J.K** (hereinafter “**the petitioner**”) seeks dissolution of her marriage to her husband, **M.K.A.C**, (hereinafter “**the respondent**”) on the grounds of desertion and cruelty. In her particulars of desertion, the petitioner states that in or about 2006, the respondent avoided her and chose to live with his friends and further that since 2006, the respondent has never communicated with her.

In her particulars of cruelty, the petitioner states that the respondent denied her conjugal rights; that he refused to provide for her maintenance; that he never introduced her to his parents and completely ignored her when making family decisions.

In those premises, the petitioner contended that her marriage to the respondent had irretrievably broken down and should be dissolved.

When the respondent was served with the petition, he filed an answer in which he denied the desertion and the cruelty alleged. He instead averred that it was the petitioner who had deserted and neglected him. Although he did not cross petition for divorce he averred that there was neither love nor respect in the marriage and that the same should be dissolved.

In her oral testimony in court, the petitioner stated, in the main, as follows:-

She started living with the respondent in 1995, but solemnized the union at the District Commissioner’s Office at Nakuru on 13th March, 1998. They were then issued with a Certificate of Marriage under the Marriage Act (Cap 150 Laws of Kenya). They lived and cohabited in several places including Nairobi, and Nakuru but were not blessed with any issue. In February, 1996, disagreement arose when they got a house in Nairobi. She expected to move into the house together with the respondent but despite providing the initial payment of Kshs 8,000/=, he did not move into the house with the petitioner and has been alone since that year (1996). The respondent has never attempted to resume cohabitation with the petitioner and reconciliation failed.

In the premises, the petitioner testified that her marriage to the respondent had irreparably and irretrievably broken down and should be dissolved.

In cross-examination, she maintained that she was not responsible for the break-down of the marriage and that the last verbal communication with the respondent was in 2009 when they met at a funeral ceremony.

The respondent did not offer evidence at the trial.

Having considered the evidence adduced before me, I am satisfied that the petitioner has satisfactorily demonstrated the ground of desertion. Her evidence was not in any event controverted. I find and hold that this marriage cannot be saved as it has irretrievably broken down.

In the end, the marriage between the petitioner and the respondent is hereby dissolved. Decree nisi shall issue forthwith and the same shall be made absolute after one month.

Each party shall bear his/her own costs of the cause.

Orders accordingly.

DATED AND DELIVERED AT ELDORET

THIS 30TH DAY OF JULY, 2012.

**F. AZANGALALA
JUDGE**

Read in the presence of:

Mr. Chepkwony.

**F. AZANGALALA
JUDGE.**