



O.O PETITIONER

-VERSUS-

T.N.G..... RESPONDENT

JUDGMENT

The petitioner **O.O** filed his petition dated 29th August, 2011 seeking to divorce his wife of 39 years, one **T.N.G** on grounds of cruelty and desertion.

They celebrated their marriage under the **Marriage Act** at the District Commissioner’s offices at Kisii in the year 1973 and cohabited upto 1985 when the respondent is said to have moved out of the matrimonial home. The marriage was blessed with four issues all of whom by the petitioner’s account have now attained adult status and are independent of either parent.

The divorce cause proceeded undefended as according to the record the respondent neglected to enter appearance or in any way defend the cause despite notice and service of the petition upon her.

The petitioner has stated in his petition and in his testimony before the court that they lived together between 1973 and 1980 and that between 1980 and 1985 there were intermittent periods of separation before the respondent finally left the matrimonial home in 1985. He testified that during their period of cohabitation, the respondent perpetrated acts of cruelty against him by using abusive language and being constantly quarrelsome. In his testimony, he recalled his moments of anguish when his wife abused him while accusing him of not being able to satisfy her. The petitioner ascribed his wife’s condescending attitude towards him to the fact that she was in formal employment while he was not employed.

The petitioner produced a copy of the marriage certificate which was authenticated by the court upon production of original register of marriages with entries for the period 5th to 15th December, 1973. The register was produced by a records officer in the District Registrar’s office, Kisii. The court had called for the original register as the certificate was not dated. The petitioner had indicated to the court that he did not have the original marriage certificate as the same may have been taken away by his wife, who had taken away all the couple’s property when she left the matrimonial home in 1985.

I have considered the pleadings and the testimony of the petitioner. The parties have lived apart for a period of 27 years since the respondent deserted the matrimonial home. Prior to that the respondent had been subjected to acts of cruelty through acts of verbal abuse by the respondent. In the absence of evidence to the contrary, I find and hold that the petitioner was indeed subjected to cruelty by the respondent. I am further persuaded that the union has irretrievably broken down owing to the long period of separation, now running into 27 years.

In the premises, I enter judgment for the petitioner and order that the marriage between the petitioner and the respondent be and is hereby dissolved and a decree nisi do issue forthwith and it shall become absolute in the period of six months.

This being a matrimonial cause I make no order as to costs.

Judgment dated, signed and delivered at Kisii this 21st day of September, 2012.

R. LAGAT-KORIR
JUDGE

In the presence of:

Edwin Mongare court clerk

..... petitioner present in person

..... Respondent present in person

R. LAGAT-KORIR
JUDGE