



REPUBLIC OF KENYA

High Court at Nairobi (Nairobi Law Courts)

Divorce Cause 81 of 2011

J.P..... PETITIONER

VERSUS

G.W..... RESPONDENT

JUDGEMENT

1. J.P, the Petitioner, in this cause seeks nullification of his marriage to G.W, the Respondent, in this cause on the ground that the Respondent willfully refused to consummate the marriage.
2. The provisions of Sections 13 and 14 (1) (b) of the Matrimonial Causes Act (which governs the civil marriage which was solemnized on 27.11.2009 at the Attorney General's Chambers, Sheria House, Nairobi as evidenced by the Marriage Certificate No.149994) allow either party to the marriage to petition for nullification of the marriage on the grounds, *inter alia* that the other party willfully refused to consummate the marriage. The parties did not cohabit after the marriage.
3. The Petitioner testified before me on 28/6/2012. He told the court that he is a businessman. It was his evidence that the Respondent's motive in getting married to him was to get a green card so as to enter the United States of America. The trick worked. The Respondent got a green card in 2009. She immediately left Kenya after the marriage for the USA. The Petitioner did not follow her there. He is explicit that he had no sexual inter course with her after the marriage and he confirmed that there was no connivance in the presentation of the Petition between him and Respondent and that he had not acquiesced the Respondent's willful refusal to consummate the marriage.
4. The Petition was served on the Respondent who failed to enter appearance or file answer. It therefore proceeded to hearing as an undefended cause.
5. The Petitioner and the Respondent are Kenyan citizens and the Petitioner is domiciled in Kenya.
6. I am satisfied that the Respondent willfully and unreasonably refused to consummate the marriage which now only exists in name. I am also satisfied that the Petitioner has not acquiesced in the Respondent's failure to consummate the marriage.
7. Accordingly, I pronounce a decree of nullity of the marriage between the Petitioner and the Respondent on the ground of the Respondent's willful refusal to consummate the marriage.
8. In the first instance, a *decree nisi* shall issue forthwith and subject to the provisions of Section 15 of the Matrimonial Causes Act, Cap 152 of the Laws of Kenya, the decree nisi shall be made absolute after the expiry of three months after this pronouncement. It is so ordered.
9. There shall be no order as to costs.

**Dated at Milimani Law Courts, Nairobi, on this 22<sup>nd</sup> day of November 2012.**

**GBM KARIUKI SC**  
**JUDGE**

**COUNSEL APPEARING**

*Mr. Alex Masake advocate for the Petitioner*

*Mr. Kugwa, court clerk*