



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI (NAIROBI LAW COURTS)
Divorce Cause 94 of 2008

M.K.A.B..... PETITIONER

V E R S U S

A.B.S..... RESPONDENT

R U L I N G

This is a PETITION dated 25th August, 2008 filed by M/s Muchiri Munga & Kibanga advocate on behalf of the petitioner N. K. A .B. The respondent is named as A.B.S. The orders sought in the petition are as follows-

1. THAT the marriage celebrated between the petitioner and the Respondent be dissolved.
2. THAT the Respondent be condemned to pay the costs of this cause.

The ground for requesting dissolution of the marriage is given as cruelty. The particulars of cruelty were given in the petition. They are listed as gambling denial of conjugal rights, and incurring uncontrolled debts.

A certified copy of a certificate of marriage was filed with the petition. From the certificate it is apparent that the marriage was celebrated on 8th July 1999 under Hindu rites.

The petition was served, but no response was filed. The petition therefore proceeded to hearing as an undefended petition. On the hearing date, only the petitioner testified.

It was the petitioner's evidence that she married the respondent. They cohabited, but the respondent committed acts of cruelty forcing the petitioner to leave the matrimonial house on 8/3/2007. It was also her evidence that the two did not get any child. It was also her evidence that she ended up getting severe depression.

I have considered the petition and evidence on record.

I have considered the petition and evidence on record. The evidence of the petitioner is not controverted. I find and hold that the petitioner has proved a case of cruelty. The particulars of cruelty and the petitioner's evidence have not been controverted. I believe her evidence. Continuous gambling and denying a spouse conjugal rights for a continued period of time amounts to cruelty. That is a ground for dissolution of marriage. I find that the marriage has broken down irretrievably and I will dissolve the same.

The petitioner has asked for costs. As the petition is not defended, I will not award her costs.

Consequently, and for the above reasons I order as follows-

1. I issue a decree nisi for the dissolution of the marriage between the petitioner and the respondent, which will be made absolute after the lapse of 6 months.
2. Parties will bear their respective costs of the proceedings.

It is so ordered.

Dated and delivered at Nairobi this 25th day of February, 2010.

George Dulu
Judge.