



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI (NAIROBI LAW COURTS)

DIVORCE CAUSE 105 OF 2006

R.W.N..... PETITIONER

VERSUS

P.N.N RESPONDENTS

JUDGMENT

RWN ('R') and **PNN** ('P'), got married on 8/8/1992. They are blessed with three children who are all minors.

R, who feels that their marriage was rocky, due to P's unbecoming behavior, has now petitioned for the dissolution of their marriage on grounds of cruelty.

P concedes that they have had a lot of marital problems, and that he had to rely on his wife after his services were terminated by his employer soon after their marriage, a situation which prevailed until 1993, when he secured a job, but only for a short time. He also concedes that he was convicted for having assaulted her, but however denies all the allegations contained in the petition and pleads that not only has she treated with cruelty, but that she had adulterous affairs during their marriage, urges this court to dismiss her petition, and to inter alia grant him an order for the dissolution of their marriage.

Both gave evidence in support of their claims, which evidence I have considered as well as the submissions and I am convinced that P treated his wife with cruelty, by raping, impregnating, beating and chasing away house helps, and also locking his wife out of the house despite the fact that she had a new born baby at the material time. There is also ample evidence that he did not and does not give his wife and family any financial support.

P did not manage to prove any of his allegations, and I do dismiss his cross petition.

She has however proved on a balance of probability that he treated her with cruelty and she has satisfied this court that he was guilty of various acts of misconduct, which were of a grave and weighty nature; that there was real injury to her health, and in my opinion this marriage has broken down. It cannot be salvaged. I do in the circumstances allow the petition and grant her an order to dissolve her marriage to P.

A decree nisi should issue forthwith with liberty to apply after four months. He does not oppose the prayer for custody. She shall therefore have the custody of the children of the marriage. He shall henceforth desist from threatening her, harassing her in any way, or molesting her.

The petitioner shall have the costs of this suit.

Dated and delivered at Nairobi this 25th day of June 2009.

JEANNE GACHECHE

Judge

Delivered in the presence of:

For the petitioner –

For the respondent -