



R.K.M..... PETITIONER

versus

L.M.M..... RESPONDENT

JUDGMENT

R.K.M who is the petitioner herein seeks an order for the dissolution of his marriage to **L.M.M** (“the respondent”), whom he married at a civil ceremony Attorney General Chambers in Nairobi on 2/3/2005. The two have one who was born on 21/6/2003.

R who bases his petition on the grounds of desertion and cruelty, gave evidence to the effect that the respondent started treating him with cruelty soon after their marriage, and after which she left the matrimonial home in May 2005; that his efforts to reconcile with her have been in vain, and that she has refused to go back to their home. In his opinion, their marriage has broken down irretrievably.

In a matter where the petitioner alleges desertion, the court is guided by section 8 (1) (b) and (c) of the Matrimonial Causes Act wherein it is provided that:

“A petition for divorce may be presented to the court either by the husband or the wife on the ground that the respondent –

(a)

(b) has deserted the petitioner without cause for a period of at least three years immediately preceding the presentation of the petition; or

(c) has since the celebration of the marriage treated the petitioner with cruelty;”

I have considered the pleadings herein as well as the evidence before me and it is clear that the respondent treated the petitioner with cruelty, as a result of which he feels devastated, has lost his dignity at his work place and has suffered stress. Both work for the United Nations in Nairobi. There is also ample evidence that the respondent deserted the petitioner in May 2005, which was three years before he commenced this action.

The respondent did not oppose the petition at all and therefore the petitioner’s evidence remains uncontroverted.

Based on the above, and also on the fact that the petitioner has made it clear that he never condoned the respondent’s actions and neither did he collude with her to bring this cause, I find that he has proved his case on a balance of probability. I do grant him an order to dissolve his marriage to L.M.M.

A decree nisi shall issue forthwith. He shall be at liberty to apply after 3 months.

He shall otherwise bear the costs of this petition.

Dated and delivered at Nairobi this 18th day of June 2009.

JEANNE GACHECHE

Judge

Delivered in the presence of:

For the petitioner –

For the respondent -