



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA
AT NAIROBI (NAIROBI LAW COURTS)
Divorce Cause 22 of 2005

JMK..... PETITIONER

VERSUS

JWW RESPONDENT

JUDGMENT

At the time of hearing the Petitioner testified in the presence of the Respondent and her counsel.

It is not disputed that the couple got married on 9th September, 1998 and certified copy of an entry of marriage dated 20th January, 2005 was produced. They had three issues of marriage namely:

- (i) KK born on 20th September, 1991
- (ii) BN born on 2nd August, 1993
- (iii) CW born on 26th December, 1994.

The marriage started having problems when the Respondent/wife started seeking intervention of the Bishop the Co-Respondent on all the differences in the marriage. The Petitioner categorically stated that the Bishop was also not a pastor of the church where they were members. The undue action and interference by a third party became unbearable to the Petitioner. He felt severely embarrassed and the persistent refusal by the Respondent to stop inviting the interference by the third party affected the physical and mental health of the Petitioner. When the hurt and embarrassment became beyond his sufferance, he had to move out of the matrimonial with all the children in the month of April, 1999. He denied that he was accessory to or condoned those untoward acts of the Respondent. They have not cohabited since then. The respondent also did not contribute in any way, to look after the children of the marriage. He did not expect any financial support though from her. The reconciliation though tried was unsuccessful.

In short he lamented that their marriage is beyond repair.

He thus prayed for dissolution of their marriage and custody care and control of the children of the marriage who are solely looked after by him in all their financial, social and emotional needs.

In cross-examination only question asked was whether he was ready to settle for the maintenance of the Respondent to which he conceded to pay Shs.300,000 in full settlement of her alimony and maintenance.

He denied that he has colluded with the Respondent in presenting or prosecuting this cause.

In view of the premises, I do find that the Petitioner has satisfied me that due the acts of the Respondent the Petitioner has suffered embarrassment and mental anguish. The constant invitation to a third party to intervene in the marital issues definitely is not a factor expected in normal wear and tear of a normal marriage life. Furthermore it is not disputed that the marriage is irretrievably broken.

I thus order that the marriage solemnized between the Petitioner and the Respondent be dissolved and this decree nisi be made absolute within 90 days from the date hereof.

It is also proved that all the children of the marriage have been living with and looked after by the Petitioner since April, 1999. The first child is about to attain majority and hence, I shall order that the custody, care and control of the 2nd and 3rd child, namely BN and CW be granted to the Petitioner.

The Petitioner shall, as agreed by him, pay Shs.300,000 to the Respondent in the settlement of her maintenance.

Orders accordingly.

Dated and signed and delivered at Nairobi this 4th day of June, 2009.

K.H. RAWAL

JUDGE

4.6.09