

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI (NAIROBI LAW COURTS)
Divorce Cause 81 of 2008

B.D.S..... PETITIONER

VERSUS

D.S.....RESPONDENT

JUDGMENT

The Petitioner is a Hindu female and solemnized her marriage with the Respondent under the Marriage Act on 29th February, 2008.

As per the family arrangements, their marriage under the traditional Hindu Rites was scheduled on 20th July, 2008. But the Respondent after the solemnization of the aforesaid marriage refused to have any connection with the Petitioner. He also refused to undergo the Hindu ceremony of marriage and take her to matrimonial home in Nairobi after the aforesaid marriage.

The Petitioner, despite her approaches made to the Respondent and her willingness to consummate the marriage was rebutted by the Respondent. He did not give any heed to the efforts made by community elders and their parents to reconcile the parties.

He just denied to have any relation with the petitioner and refused to give her any rights as a wife.

This in short is the sad story depicted by the petitioner in her testimony which remained uncontraverted.

She, with remorse, said that there is no hope for reconciliation and reiterated that the marriage was not consummated by willful refusal by the Respondent without any fault of hers.

Both the petitioner and respondent are residents of and domiciled in Kenya.

The Petitioner refused that she has colluded with the Respondent in presenting or prosecuting this petition.

In the premises of aforesaid, I rely on the petitioner's evidence and I am satisfied that the marriage remained unconsummated due to willful refusal to do so by the Respondent. I declare thus the marriage solemnized on 29th February, 2008 as null and void by granting decree nisi of nullity which decree shall be made absolute within 45 days from the date hereof.

The Petitioner did not pray for cost and thus I do not make any order thereon.

Date, Signed and Delivered at Nairobi this 17th day of **September, 2009.**

K.H. RAWAL

JUDGE

17.9.2009