

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

Divorce Cause 73 of 2007

D.G PETITIONER

VERSUS

E.W.K RESPONDENT

JUDGEMENT

The parties herein got married at the Registrar's office, Nairobi on 17th April 2000.

After the marriage they cohabited in, Nairobi. The Respondent is a Kenyan citizen and the Petitioner is British citizen/Kenyan Resident. They did not have any child of the marriage.

The Petitioner categorically denied that he has presented or prosecuted this petition in collusion with the Respondent. The Petition is certified as an undefended cause and the Petitioner took witness stand at the time of hearing of this petition.

In a very candid testimony he deponed that since the celebration of the marriage the Respondent had been cruel to him. The Respondent is a compulsive drunkard and used to come home in early hours of the morning, if at all she came back. On many occasions she did not come back home after her drinking spree at several bars in the city. He added that when she used to come home, she used to be very cruel, loud and quarrelsome. The neighbours used to complain through the land owner of their premises. The Petitioner is a teacher by profession and had to attend to his duties in the morning. His work was affected due to her behaviour. He averred that many times to avoid confrontation, he used to go to friends' houses or hotels to spend the rest of the night – early morning.

He tried to seek help for her alcoholism, which improved a bit, but she relegated in short time and refused to be treated.

Thus according to him he never had any semblance of comfort and warmth of a married life from the Respondent.

Eventually, around mid April, 2004 the Respondent without any reasonable explanation or justification left the marital home never to resume their marital relationship.

The Petition is filed on 21st June, 2007 after the lapse of three years from the date of her desertion.

The Petitioner denied having condoned, colluded or been accessory to the acts of cruelty and desertion deponed by the Petitioner. I have seen the demeanour of the Petitioner and I do not have any justification not to believe the uncontroverted evidence led by him and I do so find.

In the premises, I am satisfied that the Petitioner has satisfactorily proved that the respondent was cruel to him and that she deserted him as from mid April, 2004 without reasonable cause. I am also satisfied that he has not condoned those acts and have not been accessory to the same. Similarly I find that the Petition is not filed or prosecuted in collusion with the Respondent.

I am informed that the resident permit of the Petitioner is expiring in July, 2008 and he is not expected to renew the same.

Having so satisfied, I grant the order that the marriage in fact solemnized between the parties herein be dissolved with no order as to costs.

Due to peculiar circumstances of the case, I direct that the decree nisi be made absolute within 3 months from the date hereof.

Dated and signed at Nairobi this 22nd day of February, 2008.

K.H. RAWAL

JUDGE

22.2.08