



REPUBLIC OF KENYA

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

Divorce Cause 85 of 2007

B.K.....PETITIONER

VERSUS

F.FA.....RESPONDENT

JUDGMENT

The petitioner is a Hindu male and the Respondent is a Muslim lady who solemnized their marriage on 19th September, 2003 at the office of the Registrar of Marriages, Nairobi.

After the marriage they cohabited at a premises situated in Nairobi from 19th September, 2003 to 31st May, 2005 and thereafter at another premises in Nairobi from 1st June, 2005 to 4th September, 2005.

The respondent without reasonable cause left the matrimonial home and deserted the petitioner on 5th September, 2005.

In the beginning the marriage did not have serious differences except that the respondent used to go to her parents home daily from 9.00 a.m. to 4.00 p.m. when the petitioner was at his office. The petitioner is the only son of his parents who have four daughters. He was living with his parents. After some time the respondent used to come late from her parents home and used to pick up quarrels and uncalled for arguments. She did not respect or tend for his aged parents. When the petitioner tried to reason with her, she used to answer that she used to get this at her parents house and that they used to live like that at her parents home. She did not try to adjust with his life or way of living.

She refused to do any work even on Sunday when the house helps were not around.

Then she left the house vowing not to come back till his parents are not living separately. The petitioner did stress that her acts of mental cruelty and desertion which is also an act of cruelty has hurt him immensely.

The petitioner tried to talk to her to come back but she has refused.

The petitioner denied that he was accessory to her acts of mental cruelty and desertion or that he had condoned them. He also denied that he colluded with the petitioner in presenting or prosecuting this petition.

He emphasized that their marriage is irretrievably broken down

I have seen the petitioner's demeanors while giving his testimony and I do tend to believe his uncontroverted evidence. The acts specified by him are not natural or normal wear and tear of a married life. The difference in their culture and religion also did not help the marriage when the petitioner totally refused to adjust in any way.

I therefore find that the petitioner is guilty of acts of cruelty as per law and do find that the marriage is beyond salvage.

In the premises, I grant the order of dissolution of the marriage solemnized on 19th September, 2003.

Decree nisi be made absolute within 90 days.

K.H.RAWAL

JUDGE

7.3.08