



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI (NAIROBI LAW COURTS)
Divorce Cause 104 of 2006

A.G.L.R PETITIONER

VERSUS

H.A.ARESPONDENT

JUDGMENT

This petition is filed by the husband/petitioner for dissolution of his marriage with his wife/Respondent solemnized on 30th August, 1984.

After the marriage, they cohabited at Kisumu and Nairobi. Both are residents of Kenya and there is no other proceedings filed, except the present one, in respect of their marriage.

The Petitioner denied that he had presented or prosecuted this petition in collusion of the Respondent who had failed to file any response, though properly served.

The Prtitioner had sought dissolution of the marriage on desertion of the Respondent since the year 2002 and on the ground of acts of adultery committed by the Respondent.

However, at the time of adducing his evidence, he chose not to proffer any evidence on the ground of adultery.

The Petitioner testified that on his retirement as US Peace Corps employee in the year 2002 he had to go back to his rural home at Kakamega as that was the only matrimonial home he could live in.

But the Respondent vehemently and without any good cause refused to accompany him. She did not give him any reason of her refusal and also did not give any solution as to where he could stay after retirement.

The Petitioner further stated that there was total refusal of any communication by the Respondent and of course they had no cohabitation since that year.

He testified that the marriage is irretrievably broken down.

The Petitioner denied that he was accessory to the desertion by the Respondent.

The Petitioner gave very frank and simple testimony which remain uncontroverted. I tend to believe

his testimony as credible and rely thereon.

This petition is filed on 25th July, 2006 after lapse of three years since the Respondent deserted the Petitioner.

I thus find that the Petitioner has proved as per required standards and as per Section 10 of Matrimonial Causes Act (Cap 152) that the Respondent has deserted the Petitioner without any reasonable cause.

In the premises, I grant the prayer of dissolution of marriage solemnized between the parties.

Decree Nisi be made absolute within 60 days.

Dated, signed and delivered at Nairobi this 24th day of July, 2008.

K.H. RAWAL

JUDGE

24.7.08