



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

DIVORCE CAUSE 100 OF 2006

L.K.K.....PETITIONER

VERSUS

B.N.K.....RESPONDENT

JUDGMENT

The Petitioner/husband filed this Divorce Cause on 19th July, 2006.

According to his short and candid testimony, after Customary marriage celebrated in 1980, with the Respondent, they solemnized their marriage under the Marriage Act (Cap 150) on 28th April, 1989. They cohabited at a premises in Langata after the marriage and they have four children of the marriage, namely;

1. C.M – born on 25th May, 1982.
2. D.K.K – born on 24th December, 1983.
3. P.P.K – born on 24th December, 1988.
4. G.M.K – born on December, 1990.

The Petitioner works as a Flight Manager. He has worked with this company [PARTICULARS WITHHELD] since 1974.

He recalled 19th July, 1993 and testified that on that night he was working at night shift and the Respondent was supposed to pick him up from the Airport at 1.00 a.m. On finishing his work, not seeing her, he called home and she picked up the phone stating she was coming. He waited for her and after some time called home again and no one picked the phone. He then took a taxi to go home and was shocked to see an open gate and unlocked door of the house. When he switched on the light, to his dismay and disbelief, an empty house was facing him without the Respondent, the children, the furniture and household goods.

Since that day the Respondent simply disappeared from his life. He stressed that he has not seen her since that day and not heard from her. He denied that he was accessory to the desertion by the Respondent. After about four years the last three children came back to him as the first daughter got married and moved to U.S.A. He has from that date, single handedly taken care of the children and all their needs and welfare.

For personal reasons, he did not want to pursue the allegation of cruelty he had made against the Respondent and which are not denied or responded to by her.

He denied that he has presented this petition or prosecuted the same in collusion with the Respondent.

On the above evidence, the Petitioner seeks the dissolution of his marriage with the Respondent.

It is evident from the uncontroverted evidence of the Petitioner that the Respondent had deserted the Petitioner without any reasonable cause. She disappeared in the darkness of night leaving an empty house for the Petitioner.

The petition is filed after the prescribed period of three years.

I also note that the marriage is irretrievably broken down as the parties have not seen each other and the Respondent has not even seen the children.

In the premises, I do find that the Petitioner has proved that the Respondent has deserted him without any reasonable cause for a period of more than three years since the date of filing this petition and I grant the order that the marriage solemnized between the parties be dissolved.

The Petitioner has asked for order of custody, care and control of the last born son, namely G.M.K whom he has cared for since many years, and who has not till to-date attained the required age. I do grant that prayer.

There shall not be any order on costs as the petitioner did not ask for any.

Decree nisi be made absolute within 60 days due to the circumstances of this case.

Dated and signed at Nairobi this 10th day of July, 2008.

K.H. RAWAL

JUDGE

10.7.08