



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

Divorce Cause 21 of 2005

A.K.K PETITIONER

VERSUS

J.N RESPONDENT

JUDGMENT

The petitioner, A.K.K and the respondent J.N contracted a marriage between them on 19.12.2003 at Sheria House, Nairobi and later at Consolata Church in Westlands. They obtained a marriage certificate of the same date – exhibit No.1.

The marriage was properly consummated in Nairobi where they both resided. The evidence of the petitioner shows that on 7.8.2004 the respondent left their matrimonial home and did not return home until the next day. That conduct brought some misunderstanding between the two which made the respondent again leave the matrimonial home for three more days. When she came home, this time she in the absence of the petitioner, collected her personal belongings and left the home for third time. She never came back again. The parties stayed together as husband and wife only for seven months. They had no child together.

The petitioner in his evidence before this court further testified that the respondent never agreed to cook while the two cohabited. She often go out on Friday and only show up on the following Monday. She often refused giving the petitioner the wifery comfort and his conjugal rights during her unexplained and unreasonable absences.

The petitioner also testified that despite his good treatment of her, she was incessantly abused him and refused accompanying him to his parent's home to see them. That she even refused to attend the petitioner's father's funeral. That she also was constantly in the company of male friends who would call her even in the middle of the night and she would not be willing to explain to him why and what male friends would want to communicate with her during such odd hours. She also often left obscene photographs in the house with a probable purpose of offending him.

For the above reasons the petitioner sought dissolution of their marriage based on the ground of cruelty and on the fact that the marriage is irretrievably broken down.

The respondent filed an Answer to the petitioner and also filed a Cross-petitioner to which the petitioner filed a reply. However, during the hearing the respondent failed to turn up in court to defend her cross - petition and prove her cross-petition.

I have carefully considered the evidence from the petitioner as based on his petition and reply to the cross-petition. I am satisfied that his evidence is reliable and credible. It was as well not controverted. I am accordingly satisfied that the respondent treated the petitioner with great cruelty during their short marriage. I am also satisfied that the marriage as a result has irretrievably broken down with little or no chances of salvaging it by either party. The parties appear to have failed to make the marriage work from the whole beginning. Their characters and conduct appear to have been incompatible from the whole start. Little will be achieved to keep the two together and the best way is to release them from each other so that each can go his/her own way.

I am aware that the marriage did not complete the statutory three years period. I however observe that in Misc. Application No [PARTICULARS WITHHELD], the petitioner obtained leave to file this petition before the expiry of three years. I also observe that there is neither condonation nor collusion between the parties to bringing this proceedings.

For the above reasons, I will grant the reliefs sought herein by the petitioner in the following orders:-

ORDERS:-

- 1. The marriage entered into by the petitioner, A.K.K and the respondent, J.N on 19th December, 2003 is hereby dissolved with decree nisi to issue forthwith.**
- 2. Either party is at liberty to apply for the decree absolute after 3 months.**
- 3. No order as to costs.**

Dated and delivered at Nairobi this 27th day of October, 2008.

D.A. ONYANCHA

JUDGE