

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA

AT NAKURU

DIVORCE CAUSE 17 OF 2007

J.D.S.S.....PETITIONER

VERSUS

K.R.M.S.....RESPONDENT

JUDGMENT

This is a divorce cause based on the ground of cruelty. Upon being served with the petition and notice to appear, the Respondent only entered appearance through counsel but never filed any answer to petition and the same is therefore uncontested.

Both in his petition and in his evidence before me, the Petitioner stated that he married the Respondent on 18th August 1985 under the Hindu Marriage and Divorce Act at a ceremony in Mombasa. Thereafter they lived and cohabited in Nakuru and they were blessed with two children, P.J.S born in 1986 and N.J.S born in 1991.

Ever since the celebration of their marriage the Petitioner claims that the Respondent has treated him with cruelty. He said the Respondent is a quarrelous woman who takes issues on even trivial matters. Besides refusing to listen to him, he claimed that she has also be nasty to his parents. In the year 2002, the Respondent for no apparent reason deserted the matrimonial home and went to Mombasa. When she returned in July 2007, she was in no mood to discuss a reconciliation. All she wanted was money for her upkeep and that their children. Their first daughter is a university graduate who is working in England. The second born is in Form V and lives with the Respondent in Mombasa.

On 12th July 2007, having reached a point of no return the parties went to an advocate in Nakuru before whom the Petitioner paid to the Respondent a sum of Kshs.2,000,000/- for the educational expenses of their second daughter and for her upkeep as well as that of the second daughter. Thereafter she went away and she has never returned. In the circumstances he prayed that the marriage between him and the Respondent be dissolved.

Having considered the uncontroverted evidence of the Petitioner I find that there is not much left of their marriage. Having lived apart since 2002 their marriage has irretrievably broken down. In the circumstances I grant the Petitioner's plea and declare that the marriage between him and the Respondent is hereby dissolved. A decree nisi shall issue to be made absolute after the statutory period of six months.

DATED and delivered at Nakuru this 6th day of November, 2008.

D. K. MARAGA

JUDGE.