



REPUBLIC OF KENYA

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

Divorce Cause 179 of 2006

H W T..... PETITIONER

VERSUS

I G W.....RESPONDENT

JUDGMENT

H W T, prayed the court to dissolve her marriage to I G W, on the grounds of cruelty and adultery. Particulars of cruelty were given in para 8 of the petition.

The 2 got married on 6th April 1996, at Kanjai PCEA Church, under the African Christian Divorce and Marriage Act, Cap. 151 Laws of Kenya lived and cohabited as shown in para 3 of the petition. There is one living child of the marriage S W, whose details of birth are shown in para 4 of the petition.

Para 5 of the petition denies there having been any previous proceedings between the parties herein in respect of divorce or legal separation. The two are Kenyan citizens, domiciled in Kenya.

The respondent was served with the petition, but failed to respond to it by filing an answer. Instead, he made remarks on the copy of the marriage certificate served on him, to the effect, "I G W. I have read the contents of my wife's petition for divorce, and I have no objection for her divorcing me". The remarks were dated 17.1.2007.

The petition testified that after marriage in 1999, she got employed as a secretary in the {PARTICULARS WITHHELD}, stationed here in Nairobi. Her husband ordered her to leave the job because she used to commute everyday using public transport, and he did not like it because sometimes she got home late, about 8.00 p.m.

The petitioner refused to leave her job, a fact which made her husband become violent, as he started suspecting that the petitioner was having love affairs that is why she came home late. She denied the charge and the 2 went to see their pastor for counseling. This made the respondent change for a short time, but soon got back to being suspicious and violent.

The couple discussed the problem with their relatives, including the respondent's mother, but the problem continued, and even got worse as the respondent would sometimes beat her up as late as midnight.

The petitioner felt, "**pushed to the wall**", and she moved out of the matrimonial home at the end of the year 2000, taking the child with her. She lived with her relative at the beginning. The respondent did not look for her. She too did not look for him either, and they have not been in touch since then.

The respondent stated that she has not colluded with her husband to bring this petition, neither has she connived at his cruelty. She prayed the court to dissolve the marriage and grant her the custody of her daughter.

I considered that the petitioner's evidence was not challenged, as the husband failed to file a reply to the petition. The petitioner's evidence plus the pleadings on record not having been challenged, I believe the evidence as amplified by the written submissions and from that evidence, I proceed to dissolve the marriage between H W T and I G W, solemnized on 6th April 1996 at Kanjai PCEA Church under the African Christian Divorce and Marriage Act Cap. 151, Laws of Kenya. I dissolve the marriage on the ground of cruelty by Isaac.

I also grant custody of S. W. to the petitioner, and order the respondent to pay the costs occasioned by these proceedings.

Finally, I direct that a decree nisi do issue today, and the same be made absolute within a period of 30 days from today.

Dated at Nairobi this 19th day of July 2007.

JOYCE ALUOCH

JUDGE