



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI

MILIMANI LAW COURTS

Divorce Case 66 of 2006

KRSS.....PETITIONER

VERSUS

RHS.....RESPONDENT

JUDGMENT

KRSS, petitioned the court for an order to dissolve his marriage to RSS, on the grounds of cruelty.

The respondent filed an answer to the petition and also cross-petitioned for divorce also on grounds of cruelty.

The petitioner replied to the cross-petition and prayed the court to have it dismissed with costs.

On the day of the hearing, however, counsel for the respondent applied to withdraw the cross-petition filed on 19.7.2006. I granted the order, and the cross-petition dated 17.7.2006 was subsequently withdrawn with no order as to costs.

The answer to the petition was also withdrawn at the request of counsel for the respondent, on the same day. The answer too, was dated 17th July, 2006.

With the above orders having been recorded, the petition remained undefended.

The petitioner, KRSS, got married to the respondent on 16th October, 2002 at the Registrar General's office in Nairobi on 16th October 2002. A copy of the marriage certificate was attached to the petition as the original on was with the respondent.

The couple lived and cohabited on shown in para 2 of the petition. There are no children of the marriage. Both are resident in Kenya and are Kenyan citizens. The petitioner recalled that her husband filed a divorce case against her in 2005, but subsequently withdraw it on 6th April, 2005, but she then filed this cause on 12th May 2006, seeking divorce on grounds of cruelty. She lamented that she suffered verbal abuses both from her husband and his relatives. That she was not allowed to visit any relative, and they too could not visit her. That further, her husband's family found fault with her family all the time so she could not visit her family though they lived in the same city as herself. She was only allowed to talk to

them on the phone, but with restriction.

The petitioner noticed that her husband did nothing to sort out this situation. Instead, he sent her “*abusive SMS messages*” on her mobile phone.

The petitioner felt traumatized and was admitted at Mombasa hospital for 4 days. Her husband never visited her.

Upon discharge, she went back to the same house but her husband was never there for her.

On 15.8.2004, her husband told her that he wanted her out as he was involved with another woman. He referred to marriage to her as “*a mistake*” and ordered her out of the house.

This was a blow to the petitioner. She was totally devastated and felt she could not continue with the marriage and in any event the respondent asked her to leave, so she left. This was on 16.8.2004. He refused to buy her air ticket back to Nairobi, so she had to buy one by herself.

The petitioner prayed the court to dissolve her marriage to the respondent. She confirmed that she has not condoned her husband’s cruelty, and has not presented this petition in collusion with him. She also confirmed that she is not asking for any other relief.

From the above evidence which was not challenged by the respondent, I am satisfied that the petitioner has suffered cruelty at the hands of her husband and she testified. This was both verbal and by conduct, physical because she was traumatized by what he said and also his actions.

This is a marriage which cannot be salvaged due to the persistent cruelty of the respondent. I therefore grant an order to dissolve the marriage solemnized on 16th October 2002, at the office of the Registrar General in Mombasa.

I direct that the decree nisi do issue today and the same be made absolute within a period of one month from today.

Dated at Nairobi this 4th day of October, 2007.

JOYCE ALUOCH

JUDGE