

REPUBLIC OF KENYA
THE HIGH COURT OF KENYA AT NAIROBI

Divorce Cause 42 of 1997

BRNNPETITIONER

VERSUS

MAMK RESPONDENT

J U D G M E N T

The petitioner herein sought for an order of dissolution of the marriage between him and the respondent that was solemnized on 29th January, 1983 at the Registrar's Office Nairobi Sheria House. Upon the said marriage the parties who are both domiciled in Kenya cohabitated at several places until the 3rd June 1989 when the cohabitation ceased and has never been resumed.

There is one issue of the marriage namely RNN born on 11th July 1986. The petitioner gave evidence in support of the petition and reiterated the grounds of cruelty, adultery and desertion by the respondent which are stipulated and particularized in the petition.

The petition was defended and the Respondent too filed an answer and cross petitioned for divorced. According to the Respondent she was forced out of the matrimonial home with the child and the maid at night on 3rd June 1989 due to constant beatings and accusation of adultery by the Petitioner. Since the said separation in 1989 the parties have not lived together for a period of about 15 years. The Petitioner married another woman and they have a child and both parties contend that the marriage is irretrievably broken down. The child of the marriage has similarly attained the age of majority.

I have carefully considered the pleadings filed herein as well as the evidence by both the Petitioner and the Respondent. Whichever way one looks at this matter both parties have sought for the order of dissolution of the marriage. The parties have not cohabited for the last 15 years.

Accordingly I am satisfied that the marriage herein is irretrievably broken down on the ground that the parties have not cohabited for the last 15 years but for reasons that the marriage is irretrievably broken down.

Accordingly I hereby pronounce the decree of divorce and dissolve the marriage that was solemnized on 29th January, 1983. The decree nisi shall issue for the statutory period of three (3) months. Each party shall bear their own costs of these proceedings.

It is so ordered.

Judgment read and signed on 20th January 2006

M. Koome

Judge