

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI

Divorce Cause 171 of 2003

P.M..... PETITIONER

VERSUS

S.N RESPONDENT

JUDGMENT

The petitioner herein was sought for an order of dissolution of the marriage between him and the Respondent in respect of a marriage that was solemnized at first in 1964 under the Kikuyu customary law but was later formalized into a monogamous union on 11th November 1972 under the marriage Act.

Upon marriage, the parties cohabited in various places as shown in paragraph 3 of the petitioner until 1977 when the cohabitation ceased and the same has never been resumed.

There are five issues of the marriage all of whom are of the age of majority. Both parities are domiciled in the Republic of Kenya. The Petitioner gave evidence in support of the petition and reiterated all the grounds of cruelty and desertion. He accused the Respondent of having abandoned him with the children whom he brought up and educated since single handedly until they attained the age of majority.

This petition was defended and the Respondent too filed an answer and cross- petitioned for divorce. According to the Respondent she was thrown out to the matrimony home due to constant harassments and beating whereby she sought accommodation with the prison department as an employer

The first separation occurred on or about 1968 when the Respondent was forced to leave the matrimonial home but the parties reconciled and proceeded to legalize their marriage in 1972. The respondent has then also sought for an order of dissolution of the same marriage.

I have carefully considered pleadings filled herein as well as evidence by both the Petitioner and Respondents. Whichever way one looks at this matter both parties have sought for order for dissolution of the marriage. Both have accused each other of cruelty but above all, the parities have not cohabite has man and wife since 1977 that was over 20 yrs ago.

I am satisfied that the marriage herein is irretrievably broken down on the grounds that the parties have not cohabited for last over 20yrs. Similarly am satisfied that the petition was not brought through collusion for reasons that there is no relationship between the parties.

Accordingly I hereby pronounce the decree of divorce and dissolve the marriage that was solemnized in 1964 and legalized on the 11th day of November 1972

The decree nisi shall issue for the statutory period of 3 months. Each party should bear their own costs of this litigation.

It is so ordered.

Judgment read in court on 20th January 2006.

M. Koome
Judge