

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

Divorce Case 7 of 2005

L M M PETITIONER

VERSUS

K N N RESPONDENT

JUDGMENT

The Petition herein was properly certified as an undefended cause by the Learned Deputy Registrar.

The Petitioner testified to support her petition seeking dissolution of her marriage. The fact of her marriage with the Respondent was proved by production of the Marriage Certificate (Exhibit 1)

The marriage bore one issue namely L N born on 4th November, 2001.

The marriage was celebrated on 9th February, 2001. According to the Petitioner, the Respondent left to go to Australia after two weeks from the date of marriage. Thus their cohabitation was only for duration of two weeks, because after his return from Australia in 2002 the Respondent went to live with his parents in Nakuru while she was living with her parents due to departure of the Respondent. As per her uncontroverted testimony, since 2001 the Respondent has not either maintained her or the child of the marriage or has cohabited with her. He has also not communicated with them. As per her information the Respondent had started living with another woman and has completely deserted her and the child of the marriage whom she has looked after since the birth. The Petition is filed on 13th January, 2005 which period is more than three years since the date of desertion which was in February, 2001.

She stressed that she has not connived at the said desertion as well as has not condoned the same. Lastly she also testified that she has not colluded with the Respondent in presenting or prosecuting this petition.

The Petitioner's testimony apart from being uncontroverted was very forthright and I have no hesitation to believe that she spoke the truth.

In the premises, I do find that the Respondent is guilty of an act of deserting the Petitioner for more than three years prior to the date of filing the Petition.

I therefore order that the marriage in fact celebrated between the parties herein be dissolved.

From the evidence before me, I do find that the Respondent has neglected to look after the child of the marriage namely L N who is a female child and of tender years and thus I also order that the custody, care and control of the said child be granted to the Petitioner herein.

I further direct that the decree nisi be made absolute within 90 days from the date hereof.

K.H. RAWAL,

JUDGE

24.3.06