

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

Divorce Cause 75 of 2004

H. M. S..... PETITIONER

VERSUS

M. H. C. S..... RESPONDENT

JUDGMENT

The Petition herein was certified as an undefended cause and thus only the Petitioner adduced evidence to prove her case.

The parties herein profess Hindu religion and were married as per Hindu rites at Visa Oswal Centre, Nairobi. The marriage certificate was produced to prove the solemnization of the marriage on 10th August, 1998.

The Petitioner and the Respondent both are citizens of Kenya and were resident of Kenya at the time of marriage and thereafter.

The Petitioner is working as a consultant Marketing Manager and the Respondent although was an Accountant by profession, worked as [PARTICULARS WITHHELD] in Nairobi.

After marriage the parties cohabited in Nairobi. They do not have any issue of marriage. The Petition herein is the only proceedings filed as regards their marriage.

The marriage saw a rocky start with the Respondent being very abusive. He hurled insults to the Petitioner without any provocation or ground, even in front of people and also in front of friends during social gathering. The Respondent picked up quarrels on petty issue and then became physically violent. He used to drink beyond his tolerance to alcohol and during the drunken stupor was very abusive, insulting and violent with the Petitioner. He was also not very helpful in contributing towards the domestic and household expenses. The Petitioner used to bear all those expenses from her income.

Around middle of August, 2002 he informed the Petitioner that he was going to U.K. to buy machineries. However, on the day of his departure, i.e. on 15th August, 2002 he told her that he was leaving Kenya permanently to settle in U.K. and not coming back to her.

After sometime he called her simply to join him in U.K. and if she did not do so, he would not have anything to do with her. He did not tell her whether he was earning enough and well settled to look after her. She was hesitant to just uproot herself to go to a strange country when even in Nairobi she was the one who was running the home. When she tried to talk to him he refused to listen and up to the date of filing this petition (3rd June, 2004) he has not communicated with her.

Her testimony which was simple and genuine remains uncontroverted. I do believe that the Petitioner was telling the truth.

The constant abuses, neglect and in the end abrupt desertion without any cause are the acts of cruelty

which cannot be termed as normal wear and tear of the married life. The continuous acts have their physical and mental effects and a spouse is not expected to bear the same.

The Petitioner also testified that she has not been accessory to or has not condoned those acts of cruelty and that she has not presented or presented this petition in collusion of the Respondent.

With those observations I do find that the Respondent was guilty of acts of cruelty against the Petitioner and order that the marriage solemnized between the parties be dissolved.

I further direct that the decree nisi herein be made absolute within 3 months from the date hereof.

I do not make any order on costs.

Dated and signed at Nairobi this 14th day of July, 2006.

K.H. RAWAL

JUDGE

14.7.06