



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI (NAIROBI LAW COURTS)
Divorce Cause 24 of 2003

M W.....PETITIONER

VERSUS

J K RESPONDENT

JUDGMENT

The Petitioner in this Divorce Cause sought for an order of dissolution of the marriage that was solemnized between petitioner and the respondent on the 6th December, 1997 under Marriage Act.

Upon the solemnization of the marriage the parties who are both Kenyan citizens cohabited as husband and wife in Nairobi.

There are four (4) issues for the said marriage namely:

- a) **J.W born on 16th September 1988**
- b) **M.A.M born on 24th October 1993**
- c) **C.G born on 25th February 1995**
- d) **E.K born on 15th June 1999**

Both parties are self-employed. This Petition was defended as the respondent duly filed an answer but failed to attend court during the hearing of the petition. Hence the petitioner proceeded to present her petition and gave oral evidence in support of the petition. She reiterated the particulars of cruelty stipulated in the petition. She gave a detailed account of how she has been subjected to both physical and mental violence.

She produced medical reports and police abstract form which shows that the incidences were duly reported to the police and the injuries she sustained were treated. These incidences of violence were reported several times such that the petitioner made so many reports to the local police and to the local chief. Eventually the petitioner was forced to seek alternative accommodation as the continued cohabitation became impossible and the children were traumatized due to the respondent's repeated insults and derogatory remarks. The petitioner, who did not condone the violence, therefore sought for dissolution of the marriage and the custody of the four children who are all of tender age.

I have carefully examined the evidence by the petitioner, the documents produced in respect of the petition and the pleadings filed herein and I am satisfied that the petitioner herein has been able to prove her case to the required standard.

I am also persuaded that this petition was not brought through collusion but for reasons that the marriage is irretrievably broken down for reasons of cruelty perpetrated by the respondent. Since the parties separated the petitioner, has been having the custody of the children. She has been providing for them single-handedly so she should continue to have their custody.

Accordingly, I hereby pronounce the decree of divorce and dissolve the marriage that was solemnized between the parties herein. The decree *nisi* shall issue after the statutory period of three (3) months.

The petitioner shall have the custody, control and care of the four children until they attain age of majority. Any party shall be at liberty to apply.

It is so ordered.

Judgment read and signed on 11th July 2006

MARTHA KOOME

JUDGE