



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

Divorce Cause 156 of 2005

S.K.G..... PETITIONER

VERSUS

S.N.G RESPONDENT

JUDGMENT

This petition for divorce was heard ex-parte by me after I rejected the application for adjournment by the counsel for the Respondent and when he failed to get prepared even after given due time to do so.

The Petitioner testified and stated that he got married to the Respondent S.N.G on 9th December 1967 at Nakuru. They both are citizens of Republic of Kenya and are domiciled also in the said Republic. The marriage was blessed with four children and they all have attained age of majority. I need not specify their names and details of birth, but I do note that they are named in paragraph 2 of his amended petition. The couple cohabited together till the year 1987 and since then they have separated.

The Petitioner lives in [PARTICULARS WITHHELD] area of Nairobi and the Respondent lives in Nakuru at a farm. The Petitioner after retirement is running his businesses. The Respondent runs the aforesaid farm as well as schools under the name [PARTICULARS WITHHELD] situate at Nakuru.

He testified that since 1987 the Respondent has moved to Nakuru. She used to come back to him at Nairobi home as a wife for about three years but gradually she stopped that also. Thereafter she had come back to matrimonial home only for social functions like weddings of the children. She would come as a visitor by arriving in the morning and leaving in the evening. She attended those functions as a mother and not as a wife. He also stated that during initial periods he would visit her at Nakuru farm to check on its activities. He specified that since around 1987 they had no conjugal relations.

As per his testimony his efforts to communicate with the Respondent over this issue of break in their relation was blocked by the Respondent. According to him her actions affected him mentally and socially. He testified that due to her departure he had to shoulder responsibilities of both parents while the children were schooling. He further added that as a CEO [PARTICULARS WITHHELD], he was invited to several social and official functions as a couple but was compelled to attend those functions on his own which caused him embarrassment “on continuous basis”. She denied him emotional and social support and he required that to be successful.

He denied the allegations of cruelty and adultery leveled against him by the Respondent in her amended Answer and Cross-petition. He testified that the party cited B.W.G is his friend and a business partner. He does not have any adulterous relation with her or with any other woman.

His above evidence remained uncontroverted. The party cited also chose not to lead any evidence, but it was submitted that the allegations against her be dismissed as the Respondent chose not to be present in the court to substantiate the same.

The Respondent having filed the Answer and Cross-petition was not present to substantiate the averments made therein. Thus the evidence led by the Petitioner remained uncontroverted. The Respondent has also not denied that they have ceased to stay together as wife and man. The couple has been estranged since 1987 and definitely none of the parties wishes to continue with this marriage. The Petitioner gave his evidence and in absence of any challenge as to its veracity I accept the same as creditworthy.

I also note with satisfaction that the Petitioner has abstained from giving any substantiation as to his allegations of cruelty against the

Respondent. The act of desertion is proved as per my finding.

I thus allow the amended petition on the ground of desertion by the Respondent and order that the marriage in fact solemnized between the couple on 9th December, 1969 be dissolved.

The amended Answer and Cross-petition by the Respondent be dismissed with no order as to costs.

I also do not make any order as to costs on the amended Petition.

Decree nisi be made absolute within 30 days from the date hereof considering the long separation.

Dated and signed at Nairobi this 16th day of November, 2006.

K.H. RAWAL

JUDGE

16.11.06