

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

Divorce Cause 96 of 2005

S.K.K PETITIONER

VERSUS

M.M.S RESPONDENT

JUDGMENT

The Petitioner in this cause testified in presence of Mr. Abele the learned counsel who held brief for the counsel of the Respondent. No questions were asked by the said counsel after the Petitioner finished her testimony. Thus her testimony remained uncontroverted. I also have keenly observed the Petitioner during her testimony and I do not have any reasons to find that she was not telling the truth.

She testified that herself and the Respondent started cohabiting since 1986 and their relation was formalized in solemnization of marriage on 5th October, 2001. She produced the certified copy of the Marriage Certificate No [particulars withheld]

They have four children namely

- 1. K.L born on 15.6.87**
- 2. A.S born on 17.12.91.**
- 3. J.M born on 27.4.94**
- 4. G.S born on 15.4.96**

The Petitioner had filed a Separation and Maintenance Cause being Cause No. [PARTICULARS WITHHELD] on the grounds of cruelty which she has specified in her petition and has given evidence thereon.

She has also testified that after the decree of separation was granted in 2002 she has not lived with the Respondent and that they are separated since March, 2002.

She also stated that her marriage with the Respondent has been irretrievably broken and that she has not colluded with the Respondent in presenting or prosecuting this petition.

Under Section 7 of the Matrimonial Causes Act (Cap. 152 Laws of Kenya), the decree of judicial separation is the sufficient proof of the grounds on which the same was granted. Thus I can easily find that acts of cruelty averred by the Petitioner are sufficiently proved by the decree of Judicial Separation and also find that the parties have not resumed cohabitation.

In the premises, I do order that the marriage in fact solemnized between the parties be dissolved.

The decree nisi be made absolute within 60 days from the date hereof.

Dated and signed at Nairobi this 10th day of November 2006

K.H. RAWAL

JUDGE4

10.11.2006