



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

Divorce Case62 of 2005

J.H PETITIONER

VERSUS

N.H.....RESPONDENT

JUDGMENT

The petitioner J.H moved the court for an order to dissolve his marriage to N.H, on the grounds of desertion.

The 2 were married on 4th October, 1993, at the Hounslow Registry office in London. They moved to Kenya, and lived and cohabited as shown in para 2 of the petition.

The couple had 3 children whose names and dates of birth appear in para 6 of the petition.

The petitioner testified that from about the middle of 2001, it became difficult for him to live with his wife as they no longer had the same values, dreams etc etc.

That perhaps because of the age gap between them, he notice that N matured and started doing the sort of things which should not be done in a marriage. The petitioner was eleven years older than N by the time they got married.

He stated further that N moved out of the matrimonial house where they lived in Naivasha in the muddle of 2001. The petitioner tried to restrain her, but was unable as she had made up her mind to leave. She moved into a house not far from the matrimonial home, and lives there with another man. They already have a daughter aged about 1½ years old.

The petitioner lamented that N deserted him as she has never come home to live in the matrimonial home. She felt sad when she learnt of the divorce petition filed against her but she did not file any answer.

The petitioner denied any collusion between him and his wife. He also confirmed that he has never connived at her act of desertion.

The petitioner produced a consent order entered between her and N concerning the 3 issues of the marriage and a final settlement for N, which she has already paid. The petitioner pays school fees for the children. The petitioner also pays for their upkeep when they are with N. The respondent has custody, but the petitioner has reasonable access.

He prayed for the dissolution of his marriage to N, and also adoption by court of the consent orders entered into by him and N

As I have stated, N did not file an answer to the divorce petition, thus not denying the “charge” of desertion against her. In the circumstances, I am satisfied that the petitioner has proved her petition on a balance of probabilities, and is therefore entitled to the orders sought.

Further, I am satisfied that there is no collusion between the parties to file this petition neither did I find any evidence of connivance on the part of the petitioner.

I therefore proceed to dissolve the marriage between the petitioner and respondent and direct that a decree nisi will issue straight away and the same will be made absolute within a period of one month from today.

Finally, I order that the consent order dated 2nd November, 2005, entered into and signed by the parties to this petition be **ADOPTED** and made an order of the court.

Dated at Nairobi this 24th day of March, 2005.

JOYCE ALUOCH

JUDGE