

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

DIVORCE CAUSE 32 OF 2000

F.O.M..... PETITIONER

AND

W.O.M RESPONDENT

JUDGEMENT

The petitioner in this Divorce cause petitioned for the dissolution of the marriage that was solemnized in December 1974 at St. Luke's Church Butere. Upon marriage the parties cohabited as husband and wife at the following principal places:

Busia 1974-1978

Garissa 1978-1981

Embu 1981-1984

Kisumu 1984-1989

Nairobi 1989-1994

There are five (5) children of the said marriage all of whom have attained the age of majority.

Both the petitioner and respondent are domiciled in the Republic of Kenya. The petitioner is a civil servant working for the (*particulars withheld*) as an extension worker while the respondent is retired from the civil service where he worked in a senior position. The parties herein separated on 24th October 1994 and they have not resumed cohabitation hence the petitioner sought for an order of divorce and the respondent cross petitioned and sought for an order for judicial separation. During the hearing both parties adduced evidence in support of their petitions. According to the petitioner, she gave evidence and gave a detailed account of several incidences where by she complains the respondent was cruel to her. The petitioner testified of how she was severally battered by the respondent until she lost her capacity to hear on one side of her ears.

Besides the physical violence the petitioner also complained that the respondent has committed adultery with several women and he is currently living with one of them as a wife. These women were taken to the petitioners matrimonial home and even when one of them died she was buried by the respondent in their family land. The petitioner also reiterated all the particulars of cruelty stipulated in the petition and sought for:

Order dissolving the marriage which according to her is irretrievably broken down.

The respondent on the other hand gave evidence, in support of the cross petition. Apparently he did not deny that he has been living with other women but according to him he expected the petitioner to be understanding and to tolerate his association with other women.

I have given careful thought to the matter arising out of this petition, the parties herein separated in 1994 and there has been no cohabitation. The respondent has gone different ways and has been living with other women which behaviour the petitioner has not condoned.

I am satisfied that the marriage is broken down irretrievably. The petitioner has been able to prove her case to the required standard and accordingly I hereby grant the petitioner the orders sought. I pronounce the decree of divorce and the decree nisi to issue for a statutory period of 3 months. This being a family matter let each party bear their own costs.

It is so ordered.

Judgment read and signed on 15th July 2005.

M. KOOME

JUDGE