



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

Divorce Cause 147 of 2004

N S.....PETITIONER
VERSUS
T S S.....RESPONDENT

JUDGEMENT

The Petitioner herein N S sought for an order of dissolution of the marriage that was solemnized on the 28th day of December 1990 between her and the Respondent T S S before the Office of the Registrar of Marriages, Nairobi.

Upon marriage the couple cohabited as husband and wife at the following principal places:

- a) Hurlingham, Kwifra Estate House No. 18 (from 1990 up to January 2002)
- b) Riverside Road Apartments, Riverside Drive (from January 2002 to April 2002)
- c) Hurlingham Kwifra Estate House No. 18 (from September 2002 up to March 2004).

There are two issues of the said marriage namely:

- (a) A.S. born on 13/8/91
- (b) R.S. born on the 15th April 1997

This petition was certified as undefended case on 26th May 2005 when the Registrar's certificate to that effect was issued.

During the hearing the Petitioner gave evidence in support of the petition and gave a detailed account of incidents of cruelty, neglect and abandonment by the Respondent that characterized their relationship.

The Petitioner reiterated the particulars of cruelty as contained in paragraph 7 of the petition. According to the petitioner the marriage is irretrievably broken down and there is no likelihood of reconciliation. Due to these persistent disagreements, quarrels and acts of cruelty the Petitioner was forced to separate from the Respondent who absented himself from the matrimonial home from the year 2001 hence making cohabitation impossible. The Petitioner maintained that she has not brought this petition through collusion but for irreconcilable differences. She has had the custody of the two minor children but prayed for an order that the Respondent should continue to pay the school fees for the children.

I have carefully considered the Petitioner's evidence as well as the pleadings filed herein. In the absence of any evidence to controvert the Petitioner's evidence, I am fully satisfied that the Petitioner has proved her case to the required standard and that this petition was not presented or prosecuted in collusion with the Respondent.

Accordingly, I hereby pronounce the decree of divorce and dissolve the marriage that was solemnized on 28th day of December 1990.

The decree nisi shall remain in force for a period of 3 months.

The Petitioner shall have the custody of the two minor children while the Respondent shall have access as should be arranged between the parties.

The Respondent shall continue to pay school fees for the children and each party will be at liberty to apply.

It is so ordered.

Judgment read and signed on 30/9/05

MARTHA KOOME

JUDGE