



**REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI**

FAMILY DIVISION

DIVORCE CAUSE 177 OF 2000

B.N.....PETITIONER

VERSUS

L.N.....RESPONDENT

J U D G M E N T

The Petitioner in the Divorce Cause sought for the dissolution of the marriage that was solemnized on 13th August 1988 between him and the Respondent at Consolata Church, Nairobi.

Upon marriage the parties cohabited as husband and wife until October 1999 when the cohabitation ceased. Both parties are Kenyan citizens in the course of the cohabitation, the parties were blessed with six issues aged between respectively 16 and 6 years

The Respondent filed an Answer to the Petition but did not offer any evidence in support of the answer. The Petitioner gave evidence and reiterated the grounds of cruelty particularized under paragraph 8 of the Petition.

According to the Petitioner this union was characterized by tensions, mistrust, and violence that was perpetrated by the Respondent. The Respondent used to hut throw objects at the Petitioner and at one time stormed into the Petitioner's staff meeting and threw files at him. This caused the Petitioner tremendous humiliation.

The Respondent also threatened to harm the children and the Petitioner. These incidents were repeated several times and eventually in October 1999 the Petitioner left the matrimonial home and there has been no resumption of cohabitation. The Petitioner stated that he did not condone the acts of cruelty and brought this Petition because the marriage was irretrievably broken down and he feared for his life .

I have carefully considered the Petitioner's evidence which was not at all challenged as well as the pleadings filed herein. I am satisfied that the Petitioner has proved his case to the required standard that the marriage between him and the Respondent is broken down irretrievably due to the separation for a period of over 4 years and due to irreconcilable differences.

I am also satisfied that this Petition was not presented through collusion and the Petitioner did not condone the acts of desertion

The parties had arrived at a Deed of Settlement that settles the matters of custody of children, maintenance and the division of the matrimonial property. I have gone through the said settlement dated 25/7/05 that was presented to this Court by the Petitioner and was marked exhibit No.1 and I hereby

approve and adopt as an order of this court in respect of the dispute over custody of children, maintenance and division of the matrimonial property.

Counsel for the Petitioner submitted that the parties have also suffered tremendous distress and the Petitioner would like to take an early opportunity to settle the payment as per the Deed of Settlement which can only be done after the decree absolute is issued. She therefore urged the Court to make the period within which the decree absolute can be issued shorter.

Based on the above submissions, I am satisfied there are special circumstances to warrant the decree absolute being issued after a period of one (1) month in order to minimize the distress and to enable the parties move on with their respective lives.

Accordingly, there are the orders:

1. The marriage between the Petitioner and Respondent which was solemnized on 13th August 1988 be and is hereby dissolved. The decree nisi to remain in force for a period of one (1) month.
2. The Deed of Settlement dated 25th July 2005 is hereby adopted and made the order of the Court

Judgment read and signed on 7th October 2005.

MARTHA KOOME

JUDGE