

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
DIVORCE CAUSE NO. 142 OF 2003

E.N.....PETITIONER

VERSUS

G.G.....RESPONDENT

JUDGMENT

On 6th October 2003 E.N filed this Petition against Geoffrey Gichengo for dissolution of their marriage solemnized on 2nd June 2000.

The Petitioner's marriage to the Respondent was conducted at the Office of the Registrar of Marriages in Nairobi under the provisions of the Marriage Act(Cap 150). A certificate of marriage was issued by the presiding Marriage Officer. Subsequently, the Petitioner and the Respondent commenced cohabitation as man and wife, but were unable to establish a permanent matrimonial home because the Petitioner was living in Italy and Respondent was resident in the United Kingdom.

The Petitioner seeks for dissolution of the said marriage to the Respondent on ground of cruelty as particularized in paragraph 7 of the said Petition. Upon being served with a copy of the Petition and Notice to Appear, the Respondent failed to enter Appearance or to file an Answer within the time prescribed by the relevant Rules. When the Petition came for hearing on 18th December 2003 the Respondent was absent and thus the hearing proceeded as undefended cause.

I have carefully considered the testimony of the Petitioner. I have also scrutinized and inquired into the alleged ground of divorce as contained in the petition suit. I am satisfied that the Respondent has during the subsistence of the said marriage been persistently cruel to the Petitioner on the basis of the evidence of the Petitioner and stated conduct of the Respondent as outlined in paragraph 7 of the said Petition. I am thus satisfied that the said marriage of the Petitioner to the Respondent has irretrievably broken down on the singular ground of cruelty of the Respondent to the Petitioner as particularly more pleaded in the said Petition.

I am satisfied that there has not been any connivance or condonation on the part of the Petitioner and further that no collusion exists between the Petitioner and the Respondent. Lastly, I am satisfied that the Petition has not been presented or prosecuted in collusion with the Respondent and further that there has not been unreasonable delay in presenting or prosecuting the Petition.

I am satisfied on the basis of the evidence adduced that the case for the Petitioner has been proved beyond reasonable doubts. I hereby therefore pronounce a decree of divorce and order that the marriage between the Petitioner and the Respondent be and is hereby dissolved. A **decree nisi** shall henceforth issue, the same to be made **absolute** upon application. The costs of the Petition shall be met by the Respondent.

It is so ordered.

DATED and DELIVERED at Nairobi this 22nd day of January, 2004.

P.J. KAMAU

AG. JUDGE

