

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

DIVORCE CAUSE NO 182 OF 2002

J W G.....PETITIONER

VERSUS

F N W.....RESPONDENT

JUDGEMENT

On 25th September 2002 J W G filed this Petition against F N W for dissolution of their marriage solemnized on 4th December 1999.

The Petitioner's marriage to the Respondent was conducted at St. Austin's Academy Lavington through All Saint's Cathedral Church in Nairobi under the provisions of the Marriage Act (Cap 150). A certificate of marriage number 23676 was consequent thereto issued by the presiding Marriage officer. Subsequently, the Petitioner and the Respondent commenced cohabitation as man and wife, and finally established their matrimonial home at Suntack Estate in Nairobi. The Petitioner and the Respondent had earlier been blessed with one issue namely N W W born on 3rd April 1998,

The Petitioner seeks for dissolution of the said marriage to the Respondent on grounds of cruelty as particularized in paragraph 6 of the said Petition. Upon being served with a copy of the Petition and Notice to Appear, the Respondent entered appearance together with an answer by way of a Reply seeking inter alia for dissolution of the said marriage on ground of cruelty as particularized in paragraph 2 of the said Reply. The Petition and the Reply came for hearing on 12th February 2004.

I have carefully considered the testimony of both the Petitioner and the Respondent. I have also scrutinized and inquired into the alleged grounds of divorce as contained in both the Petition suit and the said Reply. 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 6 of the said Petition. I am thus satisfied that the said marriage of the Petitioner to the Respondent has on the basis of evidence and testimony of both the Petitioner and 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. I grant custody of the said child of marriage to the Respondent and order that the Petitioner shall every alternate weekend be entitled to unlimited access to the said child until further orders are made. Each party shall bear the cost of this suit.

It is so ordered.

DATED DELIVERED and SIGNED at Nairobi this 26th day of February, 2004.

P. J. KAMAU

AG. JUDGE