

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
DIVORCE CAUSE NO 32 OF 2003

B M G.....PETITIONER

VERSUS

M A G.....RESPONDENT

JUDGEMENT

On 28th February 2003 B M G who is a Kenyan citizen filed this petition against M A G for dissolution of their marriage solemnized on 16th February 1993. At the time of presentation of the said petition, the Petitioner was domiciled in Kenya.

The Petitioner's marriage to the Respondent was conducted in Shree Halari Visa Oshwal Samaj Temple at Dadasaheb Falke Road, Bombay India under the Bombay Registration of Marriage Act 1953. A certificate of marriage number RGM [particulars withheld] was consequent thereto issued. Subsequently, the Petitioner and the Respondent commenced cohabitation as man and wife, and established their matrimonial homes in Mumbai India and in Nairobi Kenya at different intervals.

The Petitioner seeks for dissolution of the said marriage to the Respondent on ground of desertion as particularized in paragraph 6 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 requisite period. When the Petition came for hearing on 15th January 2004 there was no appearance for the Respondent. The hearing therefore proceeded by way of an 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 without cause deserted the Petitioner for a period of more than three years prior to the presentation of this Petition and also by reason of circumstances described in paragraph 6 of the Petition. The Petitioner has satisfied this court that she has not in any manner whatsoever contributed to the said desertion. I am thus satisfied that the said marriage of the Petitioner to the Respondent has irretrievably broken down on ground of desertion by the Respondent 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 12th day of February 2004

P. J. KAMAU

AG. JUDGE