

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA
AT MOMBASA
MATRIMONIAL CAUSE NO.45 OF 2003

HAFIZ SHAMSUDIN SULEMAN NOORMOHAMED..... PETITIONER

VERSUS

RUTH ANGELIQUE NOORMOHAMED (n'ee JOHNSON).....RESPONDENT

Coram: Before Hon. Justice Mwera

Satchu for the Petitioner

No appearance for the Respondent

Court clerk – Sango.

J U D G M E N T

The petition herein was filed on 11.12.2003 by Hafiz Noormohamed against his wife Ruth for dissolution of their marriage.

It was averred and taken in evidence at the hearing of the petition, an undefended proceeding, that the couple married on 15.1.93 at the registrar's office at Mombasa and then moved to live at FLAT No.16 KIBAKI FLATS Bamburi, Mombasa North. The two have no issue of the marriage. That while the petitioner is a logistics manager, it transpired with M/s Freight Forwarders K Ltd., the respondent is a housewife. That all the time they have been domiciled in Kenya.

It was further pleaded and put in testimony that since their marriage the respondent has treated the petitioner with persistent cruelty using obscene and foul language against him and his family. That she has on many occasions called him an asshole and his mother a bitch. That the insults have amounted to mental torture. That not only does the respondent humiliate and as it were put down the petitioner in the presence of his workmates, extended family members etc but that she is also hostile to them. That the petitioner has over all the time endeavoured to make things work by providing at home, educating the respondent's children and even building a family house but all seems not to work. That he has no peace of mind ever and that affects his work. The petitioner added that he has in fact had to begin seeing a doctor because of high blood pressure made worse by the respondent's insistent cruel conduct. That even as she knows all this she has simply persisted. So both in the petition and the testimony, the petitioner sought that their marriage be dissolved. He did not seek costs.

Mr. Satchu briefly submitted that even if cruelty in marriage which may lead to dissolution of the same is not defined by statute, it was enough for a petitioner to lay evidence before the court to satisfy it that the respondent's conduct is such that weighing it against the impact it has on the petitioner, the court is left with an impression that the former's conduct is of such a character as to have caused danger to life, limb or health (bodily or mentally) or as to give rise to a reasonable apprehension of such a danger.

In this petition which was not defended and having heard the petitioner, this court has been left with the view that the respondent's conduct to the petitioner constitutes cruelty and is a detriment to his proportion of concentration, esteem, and mental health.

As such the marriage of the petitioner and the respondent is hereby dissolved. A decree nisi to issue. The petitioner did not insist on his costs and it is so noted.

Judgment accordingly.

Delivered on 17th March 2004.

J.W. MWERA

JUDGE