

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA
AT NAIROBI

DIVORCE CAUSE NO. 92 OF 2003

SSJ.....PETITIONER

Versus

MJN.....RESPONDENT

JUDGMENT

When this Divorce Cause came up for hearing, the petitioner's counsel indicated that the petitioner had no desire to proceed with the petition. Accordingly the petition was dismissed.

The cross petitioner/respondent proceeded to adduce evidence in support of her prayers for dissolution of the marriage. The respondent was married to the petitioner on 6th March, 1994 at the Ramagharia Sikh Temple Nairobi, in accordance with the Sikh (Hindu) Customs as per the copy of the marriage certificate annexed to the pleadings.

Upon the solemnization of the said marriage the parties cohabited at Parklands upto September 1994 when they moved to Dubai U.A.E. at Al Salaam Towers where they lived up to 11th December 1999.

There are no issues to the marriage. The respondent gave a detailed account of acts of cruelty, neglect and desertion that forced her to end the cohabitation and return to her family in Nairobi. The petitioner is a successful businessman with very good reputation in show business. The petitioner left the respondent in Dubai without her knowledge or consent and stayed away for 4 months. The respondent was also subjected to physical abuse. The relationship became more strained and the marriage broke down when the petitioner refused to renew the lease for the apartment thereby causing the respondent emotional and physical anguish.

When the respondent came to Nairobi, her father made several attempts to reach out the petitioner he traveled to India and to the United Kingdom to seek the petitioner's position regarding this matrimonial disharmony without any success. Since the respondent was thrown out of the matrimonial home on 11th December 1999, there has been no communication or resumption of cohabitation. The respondent therefore asks for dissolution of the marriage on the grounds of desertion for a period of more than three years prior to the filing of this cross petition. She also prayed that the period within which the decree nisi may be made absolute be shortened for reasons that the parties have been separated for a long time and would wish to get on with their lives. The respondent also sought for the return of her wedding jewellery which was left with the petitioner.

I have carefully considered the respondent's evidence which was not challenged. Both parties are domiciled in this country. I am satisfied that this petition was not brought through collusion but for reasons that the marriage relationship broke down for reasons advanced by the respondent. Each party sought for dissolution.

Accordingly I hereby dissolve the marriage and pronounce a decree of divorce. Due to the reasons advanced the decree nisi shall be for a period of one(1) month. The petitioner should return the respondents wedding jewellery which are in his possession.

The respondent shall have costs for this petition in any event. Any party shall be at liberty to apply.

Judgment read and signed on 10th December 2004.

MARTHA KOOME

JUDGE