



IN THE HIGH COURT OF KENYA AT NAIROBI
DIVORCE CAUSE NO. 25 OF 2001

BETH NYAMBURA MWANIKI PETITIONER

VERSUS

JOHNSON M. MAGUA RESPONDENT

J U D G E M E N T

Beth Nyambura Mwaniki, started cohabiting with the respondent in 1990, and later in 1995, they got married under the Marriage Act, Cap. 150 Laws of Kenya. In June, 1996, they had a blessing in Church, but unfortunately, their marriage was not blessed with any children. The petitioner recalled that they had problems in their marriage as her husband used to spend nights out of the matrimonial house. This made the couple quarrel a lot and quite often, the petitioner was chased away from the bedroom and was not allowed to return until after several weeks.

A part from too much drinking, the respondent started seducing the house girls and lost interest in the petitioner.

The petitioner also recalled a time when she was admitted in hospital for an operation in December, 1986. She complained that the respondent used to come to the hospital drunk, and this used to embarrass her a lot.

She was eventually discharged from hospital, but returned for the removal of stitches. She was taken to the hospital by the respondent's driver. She remained admitted for 3 days and the respondent never visited her even once until she was discharged. This upset her very much.

Because of the constant problems between them, the petitioner eventually left the matrimonial home on 1st March, 1997. She went to live with her brother and she remained there for 8 months and later found her own accommodation. She prayed for an order to dissolve her marriage to the respondent. She also prayed for costs of the petition.

The court records show that the respondent was served with a copy of the petition and the Notice of the institution of these proceedings. He did not, however, enter appearance or file an answer. From that behaviour, I find that the allegations by the petitioner against the respondent are true, otherwise he would have refuted them when he was given a chance to do so.

The petitioner has in my opinion, proved that the respondent was cruel to her, which cruelty caused the breakdown of the marriage. I therefore proceed to grant an order dissolving the marriage between the two. I order the respondent to pay the costs occasioned by these proceedings.

Finally, I direct the decree nisi to issue today and the same to be made absolute within a period of one month from today.

Dated at Nairobi this 13th day of March, 2003.

JOYCE ALUOCH

JUDGE