

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

DIVORCE CAUSE NO. 59 OF 2001

K.M.G..... PETITIONER

VERSUS

L.A.S.....RESPONDENT

J U D G E M E N T

K.M.G got married to L.A.S on 8th August, 1986, at the Registrar's office in Nairobi. He identified the marriage certificate in court. Both are Kenyan citizens and are domiciled in this country. There are no issues of the marriage. The petitioner complained that since the celebration of the marriage, the respondent has treated him with extreme cruelty for the 4 years they lived together – i.e. 1986 – 1991. They separated in 1992 when the respondent left the matrimonial home. The petitioner is a [*particulars withheld*] by profession. He used to perform in a particular club everyday and would take his wife to the club only on weekends. He complained that his wife used to disappear from the house when he was at the club at night. Eventually she left and never returned. He prayed for the dissolution of his marriage to the respondent. He denied having colluded with the respondent to bring this Divorce Cause. He has not condoned the respondent's act of desertion.

The respondent did not respond when the petition was served on her, that is why the cause was certified as undefended. Though the petitioner claimed in the petition that the respondent was cruel to him, he did not adduce any evidence to support this. Instead he adduced evidence to support the "charge" of desertion. That evidence was not challenged by the respondent who failed to attend court for the hearing of the Divorce petition. From that evidence which I believe, I find that the respondent deserted the petitioner for no just cause. The desertion is for more than 3 years immediately preceding the presentation of this Divorce Cause to court.

I therefore make an order dissolving the marriage between the petitioner and respondent herein. I also direct that the decree nisi should issued straight away today, and the same will be made absolute within a period of one month from today.

Dated at Nairobi this 25th day of July, 2002.

JOYCE ALUOCH

HIGH COURT JUDGE