

REPUBLIC OF KENYA
IN THE HIGH OF KENYA AT NAIROBI
MILIMANI LAW COURTS
FAMILY DIVISION

DIVORCE CAUSE NO 11 OF 2015

E K C K.....APPLICANT

VERSUS

D W G.....RESPONDENT

JUDGMENT

1. The petitioner married the respondent at the Office of the Registrar of Marriages on the 6th of April 2012. After the celebration of the marriage, they did not cohabit as husband and wife and the said marriage was not consummated.

2. The petitioner has pleaded grounds of cruelty and adultery and states in his petition that the respondent refused to consummate the marriage causing him heartache and emotional distress and that the respondent has refused to live with him since the marriage was solemnized. He claims that the respondent openly admitted that she is in a relationship with another man.

3. The petitioner therefore seeks that the marriage be dissolved.

4. The divorce cause proceeded as undefended cause and the respondent reiterated what is averred in the petition. He testified that the respondent's refusal to consummate the marriage caused him to be affected emotionally and that he could not even work. That when he talked with the respondent she openly told him that she was seeing another man even after they got married and that she did not want to be with him.

5. The petitioner was granted leave by Hon. Justice A. Muchelule on 20th November 2104 to file the petition before the lapse of 3 years. Under the Marriage Act no. 4 of 2014, the grounds for dissolution of a civil marriage is stipulated at Section 66, one of the grounds is cruelty. It is the petitioner's evidence that the respondent completely refused to consummate their marriage and this caused him emotional distress. In my view this amounts to cruelty. In a marriage people get married because they love each other, for companionship and not rejection. The ground of adultery has not been proved. The petitioner has proved the ground of cruelty. I therefore dissolve the marriage between the petitioner **E K C K** and the respondent **D W G** celebrated at the Office of the Registrar of Marriages in Nairobi on the 6th Day of April 2012. A decree *nisi* to issue and to be made absolute within 30 days. No orders as to costs.

Dated, signed and delivered this **11th** Day of **November** 2016

R. E. OUGO

JUDGE

In the presence of:

.....For the Petitioner

.....For the Respondent

Ms Charity Court Clerk