



P.M.K.....PETITIONER

H.N.M.....RESPONDENT

JUDGEMENT

Mr. P.M.K, the Petitioner, filed a Petition for divorce against his wife, **H.N.M, (the Respondent)** on 12.7.2011 seeking dissolution of the marriage on grounds of cruelty. The couple solemnized their marriage in September 1993 at the Registrar of Marriages office in Sheria House Nairobi. Both are Kenyans domiciled in Kenya.

After the marriage the parties cohabited as man and wife in Nairobi for a period of 14 years. Their marriage was not blessed with children. Late in the month of January 2008, the Respondent left the Petitioner and went away. She has never returned.

The Petitioner avers that during his cohabitation with the Respondent, the latter treated him with cruelty. The particulars of cruelty stated in paragraph 6 of the Petition include denial of conjugal rights which the Petitioner avers caused him mental anguish and pain. Lack of love, support and care coupled with persistent rudeness and failure by the Respondent to show empathy to the Petitioner's emotional needs for love and companionship are some of the acts of cruelty averred by the Petitioner.

When the Petitioner gave evidence before me on 8.12.2011, he stated that the marriage is irretrievably broken and that he had not colluded or connived with the Respondent to present this petition for divorce. He testified that the Respondent had pegged off from the marriage and ceased to recognize the Petitioner as a spouse and instead engaged in extra-marital affairs as a result of which the Petitioner is being ridiculed by his peers.

In this case the Respondent clearly had no interest in the marriage or in the welfare or happiness of the Petitioner. He seemed intent on making sure that the Petitioner suffered and became miserable. The Petitioner put up with these acts of cruelty for some time until the Respondent left in January 2008.

The Petitioner's conduct was unjustified. It caused reasonable apprehension to the Petitioner's health. There is no evidence that the Respondent was mentally ill nor is there evidence to show that she had other disability and one can only conclude that she intended the natural and probable consequences of her actions, namely to hurt the Petitioner. It is my finding that the conduct of the Respondent amounted to cruelty and constitutes a ground for dissolving the marriage.

The marriage between the parties is dead. It exists only in name. It is my finding that the Respondent is guilty of cruelty.

Accordingly, **I pronounce a decree of divorce and hereby dissolve the marriage between Petitioner and the Respondent on the ground of cruelty on the part of the Respondent.**

In the first instance, a **decree nisi** shall issue forthwith and subject to the provisions of section 15 of

the Matrimonial Causes Act, Cap 152, **the decree nisi shall be made absolute after the expiry of three months** after this pronouncement. It is so ordered. There shall be no order as to costs.

Dated at Milimani Law Courts, Nairobi, this 1st day of March 2012.

G.B.M. KARIUKI, SC
JUDGE

COUNSEL APPEARING

Mr. Thurairaja of on behalf Gichimu Mungata & Co., Advocates for the Petitioner

Mr. D. Mutisya, Court Clerk