



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA
AT NAIROBI (NAIROBI LAW COURTS)

Divorce Cause 183 of 2006

JMM PETITIONER

VERSUS

RNM..... RESPONDENT

JUDGMENT

The parties before the court were married under monogamous system of marriage on 11th February, 2000 but prior to that they had undergone ceremony of marriage under their customary law.

They both are Kenya citizens as well as residents of Kenya. The cohabited as man and wife in Nairobi at two places upto 2004.

The marriage was graced with birth of two children namely:-

(a) SK born on 30th May, 1996

(b) RM born on 29th September, 1999.

The Petitioner/husband adduced evidence before the court. He had based his prayer for dissolution of marriage on the grounds of cruelty which are very vividly specified in paragraph 7 of his petition. I may not elaborate them. But in brief he claimed that the Respondent has been physically and verbally abusive; has spent numerous weekends in bars in company of strange men; slept on numerous weekend out of matrimonial home having traveled out of Nairobi in the company of strange men; and he added that she has been having intimate or improper relation with several men. These actions of the Respondent exposed the Petitioner to loneliness, severe humiliation and emotional pain and trauma.

It is further averred and affirmed that the Respondent used to come home drunk at the early hours of the morning and would cause commotion by hurling abuses at the Petitioner and causing damages to his utter embarrassment and trauma. The Respondent also used to take away children of the marriage from matrimonial home without ensuring their security, welfare and comfort. In April, 2005 the children were taken away in similar fashion and then she left them at the mercy and mistreatment of her relatives, when she abandoned them while leaving the country. The Respondent has according to the Petitioner showed total lack of love, affection or consideration during their married life.

Since their separation in the year 2004, they have not cohabited and as per the Petitioner their marriage has been irretrievably broken down. He denied that he has condoned or been accessory to the acts of cruelty by the Respondent and that he has presented or prosecuted the petition in collusion with the Respondent.

The Respondent was present during the hearing along with her counsel and opted not to question the petition and also to adduce any evidence.

In the premises, the testimony of the Petitioner remained uncontroverted. I had observed demeanour of the Petitioner and thus shall rely on his evidence which I find to be credible.

The Petitioner has thus proved his case as per the standard of proof in matrimonial causes and I am satisfied further that he has fulfilled the provisions of Section 10 of the Matrimonial Causes Act (cap 152).

In the premises aforesaid, I direct that the decree nisi of dissolution of marriage solemnized between the parties be issued. This Decree Nisi be made absolute within 90 days.

I do not make any orders on cost.

Dated, Signed and Delivered at Nairobi, this 3rd day of July, 2009.

K.H. RAWAL

JUDGE

3.7.09