



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

Divorce Cause 76 of 2006

PETITIONER G F

VERSUS

RESPONDENT N F

JUDGEMENT

The Petitioner having withdrawn his petition for seeking dissolution of his marriage with the Respondent, the court heard the cross-petition filed by the Respondent.

It is not in dispute that the parties got married on 19th August, 1987 under the Marriage Act. They have two children born on 23rd May, 1989 and 14th August, 1992. Both of them, at the moment, live with the Respondent.

The parties cohabited at U.S.A., Namibia and moved back to Kenya in the year 1997. The Petitioner is working with UNICEF at Zambia and the Respondent is working with UNEP in Nairobi.

The Respondent has sought the prayer for dissolution of marriage on the ground of cruelty meted to her by the Petitioner.

In short, she testified that the Petitioner has deprived her of financial needs as well as progress in her career. After their marriage he assured her that he earned enough to look after her and family and asked her to resign from a very lucrative job at Nairobi. She believed him and found with her distraught that he earned only U.S\$.800 per month which was not sufficient even to look after them and his son from previous marriage. She had to hunt for a job which she did at New York and the family moved to Manhattan.

She stressed that their relationship deteriorated due to challenges faced by her from his relatives. His relatives did not accept her and her children. They were very abusive with the participation also from the Petitioner. They showed love and care only to her step-son neglecting her two children. After he lost his job due to war in Namibia, she became the victim of his frustrations and he became abusive and some times used physical violence. He did not appreciate her efforts to look after the family on her own in the difficult situation.

He then moved to Bangladesh where he got a job leaving her to look after the three children. Thereafter he got a job at Namibia and got her convinced that he was then committed and able to look after the family and asked her to join him at Namibia.

According to her that was biggest mistake of her life. She resigned from a good job at U.N in Manhattan and moved to Namibia. But he did not do as promised. He refused to look after her. He gave her a meagre sum to look after the family needs and gave her a very old car which she felt was dangerous to drive on her own or with the children. She scrapped her saving and bought from her own resource a decent car. She described her stay at Namibia as “*very lonely and frustrating time*”.

After he lost his job they moved to Kenya. Both were jobless. He then got a consultancy work with UNICEF but he only gave her money for house rent while she managed to support the family by running a business of selling clothes from home. The Petitioner inspite of appreciating her efforts, blamed her for all his frustrations, and problems. He would also wrongfully complain to her family members against her which affected her relation with them also.

He then abandoned the family to take up a job in U.S.A., came back after 9 months and joined a job with UNICEF at Zambia.

His extra marital affairs throughout the marriage also caused her mental anguish and severe distress. He also refused her of conjugal rights and always treated her with contempt and hatred.

She denied that she has presented or prosecuted her cross-petition in collusion with the Petitioner or that she condoned or connived at those acts of cruelty by the Petitioner. She said that during 18 years of their cohabitation, she has suffered a lot and despite that she tried to save marriage by being a good wife. She added, however, that she feels that the marriage is irretrievably broken down by the action of the Petitioner.

This is the evidence before me which remained uncontroverted. I am inclined to rely on the evidence from the Respondent, also because she gave her evidence with simplicity and honesty in the presence of the Petitioner.

I am thus satisfied that the Respondent is guilty of acts of cruelty which affected the Respondent mentally and physically. These acts were consistent and cannot be described as ups and downs in a marriage.

In the premises aforesaid, I allow the cross-petition and direct that the marriage solemnized between the parties be dissolved.

The Decree Nisi be made absolute within 60 days.

The parties have recorded consent order which shall be a part of this judgment

Dated and signed at Nairobi this 2nd day of October, 2008.

K. H. RAWAL

JUDGE

2.10.08