



Case Number:	Divorce Cause 17 of 2006
Date Delivered:	19 Sep 2008
Case Class:	Civil
Court:	High Court at Nairobi (Milimani Law Courts)
Case Action:	Judgment
Judge:	Joyce Adhiambo Aluoch
Citation:	L.W.W v T.C [2008] eKLR
Advocates:	-
Case Summary:	Family Law-marriage-dissolution of-grounds of cruelty and desertion-whether the marriage was irretrievably broken down
Court Division:	Family
History Magistrates:	-
County:	Nairobi
Docket Number:	-
History Docket Number:	-
Case Outcome:	Allowed
History County:	-
Representation By Advocates:	Both Parties Represented
Advocates For:	-
Advocates Against:	-
Sum Awarded:	-
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REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI (NAIROBI LAW COURTS)

Divorce Cause 17 of 2006

L.W.W.....PETITIONER

VERSUS

T.C.....RESPONDENT

JUDGMENT

In the amended petition filed in court on 22nd March, 2007, L.W.W prayed the court to declare her marriage to T.C, a nullity on the grounds of T.C's cruelty and desertion whose particulars she gave in paragraphs 6 and 8 of the amended petition.

The cause was certified undefended by the Deputy Registrar in the Family Division.

In court during the hearing, the petitioner testified that she got married to the respondent on 12th March 1998 at the Registrar General's office in Nairobi. She produced her marriage certificate as evidence in court.

The petitioner recalled that they got married on a Wednesday, and she subsequently went back to her mother's house in Ngong, and her husband went to her auntie's house. That the two never lived together as husband and wife as her husband went back to Germany after one week.

The petitioner met the respondent in 1996. Her aunt introduced him to her, whilst she was still in school. The respondent returned to the country in 1998, and that is when the petitioner's aunty forced her to marry him as she was pregnant.

The petitioner stated categorically, **"I did not love this man. I was forced to marry him"**.

She has not communicated with her husband since he left Kenya in 1998. She now asks the court to grant her divorce so that she can get on with her life. She tried to get a visa to leave for Germany to look for him, but such visa was never issued to her.

Submissions made on behalf of the petitioner were to the effect that the marriage between her and T.C was never consummated as the two never had any sexual contact after marriage as they went separate ways the same day they got married.

I have considered the petitioner's oral evidence. I was surprised to learn from her that she agreed to go through a marriage ceremony with a man she clearly **"never loved"**, and never lived with upon marriage! How bizarre! I was not able to establish from her evidence whether she was pregnant with the respondent baby, before marriage, but she was pregnant all the same, as she stated in court.

Her evidence was not controverted. I believe it and from it, find that she proved her petition on a balance of probabilities, as no reason was given for the respondent's desertion.

I therefore move to dissolve the marriage between L.W.W and T.C, solemnized on 12th March, 1998 at the Registrar General's office in Nairobi.

The respondent is hereby ordered to pay costs of this petition.

Dated at this 19th day of September 2008.

JOYCE ALUOCH

JUDGE OF APPEAL



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