

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KAKAMEGA

DIVORCE CAUSE NO. 6 OF 2012

GN.....PETITIONER

VERSUS

BS.....RESPONDENT

JUDGMENT

1. Marriage was celebrated between the parties herein on 1st March 1999 at the Office of Registrar of Marriages at Kakamega. A certificate of marriage serial number 6**** was issued to them in accordance with the Marriage Act, Cap 150, Laws of Kenya (Now repealed). The parties cohabited thereafter at various addresses within Kenya, including [Particulars Withheld] School, Kakamega. The couple was not blessed with issue.

2. It is pleaded that since the celebration of the marriage the respondent has been guilty of cruelty, desertion and adultery. The respondent is said to have deserted the petitioner by moving out of the matrimonial home since September, 2009, never to come back. She is said to have thereafter engaged in adulterous associations with men known and unknown to the petitioner, and is currently cohabiting with a man identified as J. On cruelty, it is pleaded that when she moved out in September, 2009 she carried away all the property from the matrimonial home. The respondent pleads that the marriage has as a result completely broken down.

3. The affidavit of service on record, sworn on 8th September, 2012 indicates that the respondent was served with the petition and other process at Shianda Market on 4th June, 2012. She never thereafter entered appearance, nor filed answer to the petition.

4. On 11th October, 2016, the Judge cleared the petition to proceed as undefended.

5. The oral hearing happened on 19th December, 2018. The Petitioner testified but the respondent did not. His testimony gave vent to the allegations made in his petition, and I do not think it would be necessary to recite the same as it is on record. The petitioner's case therefore stands uncontroverted.

6. From the material placed before me it is plain that the marital relationship between the petitioner and the respondent has totally broken down. I have noted that cohabitation has been broken and parties have been living separately or apart for quite some time. The marriage no doubt has practically come to an end, and cannot be salvaged.

7. In the circumstances, I am moved to make the following final orders

- (a) That the marriage between the petitioner and the respondent, celebrated on 1st March, 1999, is hereby dissolved;
- (b) That decree nisi shall issue forthwith, to be made absolute after thirty(30) days; and
- (c) That there shall be no order as to costs

DATED, SIGNED and DELIVERED IN OPEN COURT at KAKAMEGA this 29TH DAY of April, 2019

W. MUSYOKA

JUDGE