

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

FAMILY DIVISION

DIVORCE CAUSE NO. 1 OF 2017

A M.....PETITIONER

VERSUS

C B M.....RESPONDENT

JUDGEMENT

1. Marriage was celebrated between the petitioner herein on 27th December 2000 at the Civil Status Registration Centre of Yaoundé, Cameroon. A certificate of marriage serial number [particulars withheld] was issued to them in accordance with the law of Cameroon. The parties cohabited thereafter at Douala in Cameroon and at Nairobi in Kenya. The couple was blessed with issue, three children, namely:-

(a) W, born on 10th July 2002,

(b) A, born on 11th November 2003, and

(c) R, born on 14th July 2015.

2. It is pleaded in the petition herein that since the celebration of the marriage the respondent has treated the petitioner with cruelty, and details of the alleged cruelty are particularised in the petition. It is also pleaded that the respondent left the matrimonial home at Nairobi on 22nd December 2016 never to come back. It is further averred that the marriage has irretrievably broken down, and all efforts to reconcile the marriage have not borne fruit. The petitioner seeks a single prayer, the dissolution of the marriage.

3. Upon being served, the respondent filed an answer to the petition and a cross-petition. In her answer, she denies the allegations made against her in the petition, and gives explanations for some of her alleged actions. In her cross-petition, she accuses the petitioner of cruelty and constructive desertion, and she has detailed particulars thereof. She concedes that she left the matrimonial home on 22nd December 2016, but avers that the same was on account of the petitioner's cruelty. She pleads that the marriage has broken down irretrievably and cannot be salvaged. The principal prayer in her cross-petition is for dissolution of the marriage.

4. Directions were given on 8th April 2017 that the matter would proceed to hearing as a defended cause. The hearing was conducted on 18th October 2017. Only the petitioner testified, counsel agreed that the respondent's evidence be placed before the court in affidavit form. In his oral testimony the petitioner breathed life to the averments made in his petition, adding that the respondent had filed for divorce in a Canadian court but the divorce proceedings were never conducted. In her affidavit sworn on 17th November 2017, the respondent reiterates her pleadings and breathes life to them.

5. From the material placed before me it is clear to me 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 apart for a long time. The marriage no doubt has practically come to an end, and both sides concede to that fact.

6. In the circumstances, I am moved to make the following final orders:-

(a) That the marriage between the petitioner and the respondent, celebrated on 27th December 2000, is hereby dissolved;

(b) That decree *nisi* shall issue forthwith, to be made absolute after thirty (30) days; and

(c) That each party shall bear their own costs.

DATED, SIGNED and DELIVERED at NAIROBI this 21ST DAY OF MARCH, 2018.

W. MUSYOKA

JUDGE