

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT KAKAMEGA

DIVORCE CAUSE NO. 1'B' OF 2015

L F A.....PETITIONER

VERSUS

S O O.....RESPONDENT

JUDGMENT

1. By a petition dated the 2nd March 2015, the petitioner sought for divorce against the respondent on the grounds that the respondent has treated the petitioner with extreme cruelty and deserted the petitioner and on many occasions subjected her to extreme embarrassment, hostility and mental anguish. That efforts made by the petitioner to reconcile with the respondent have failed and therefore that the union has irretrievably broken down.

2. The respondent did file a reply to the petition and also filed a cross petition in which he stated that the petitioner deserted him 8 years ago after she walked out of their matrimonial home without any reasonable cause. That the petitioner has been dishonest, cruel and has committed several acts of adultery since the time he married her. That the petitioner is excessively temperamental and has refused to reconcile with him. That the petitioner has denied him conjugal rights. He asked the court to find that the marriage between him and the petitioner has irretrievably broken down and that the same should be dissolved.

3. It was the evidence of the petitioner that she started living with the respondent in the year 1998. That they solemnized the union in a church wedding in 2002. They have two children. That after the solemnization of the union the respondent went back to college and stopped supporting the family. By 2007 she was in a lot of financial difficulties and she walked out of the matrimonial home. Family and church members tried to reconcile them but failed. She says that the marriage has totally broken down and she seeks for an order of divorce.

4. The respondent on the other hand stated in his evidence that the petitioner left their matrimonial home more than 10 years ago during which time they have been living apart. That the petitioner is in a relationship with another man and that he is also in a relationship with another woman. That the marriage between him and the petitioner has irretrievably broken down.

5. I have considered the petition, the reply to the petition and the cross petition and the evidence adduced in court by the parties. It is common ground between the parties that they have been living apart for about 10 years now after the petitioner walked out of the matrimonial home. Both have gone their separate ways and each of them is involved in another relationship. Efforts to reconcile the petitioner and the respondent by family and church members have not borne any fruit. I accordingly find that the marriage between the two has irretrievably broken down. The only option is for the marriage to be dissolved.

I therefore allow the petition and the cross petition and dissolve the marriage between the petitioner and the respondent.

Each party to bear his/her own costs.

Dated, signed and delivered at Kakamega this 17th day of May 2017.

J. NJAGI

JUDGE

In the presence of:

Court Clerk Paul

Parties absent

Petitioner's advocate absent