

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

FAMILY DIVISION

DIVORCE CAUSE NO. 172 OF 2013

P M M.....PETITIONER

VERSUS

J MM.....RESPONDENT

JUDGEMENT

1. Marriage was celebrated between the parties herein on 13th December 2007 at the Office of the Registrar of Marriages, Nairobi. A certificate of marriage serial number [Particulars Withheld] was issued to them in accordance with the Marriage Act, Cap 150, Laws of Kenya (now repealed). The parties cohabited thereafter at undisclosed locations. The couple was blessed with issue, three children, being J K (1989), S M (1994) and A L (2000).

2. It is pleaded that since the celebration of the marriage the respondent has treated the petitioner with cruelty. It is averred that the respondent is quarrelsome and of uncontrollable temper, has neglected the petitioner socially and emotionally, has showed contempt to the petitioner, has been violent and insulting to the petitioner, has denied him conjugal rights, among other particulars. He pleads that the marriage has been irreconcilable, and the two are incapable of living as husband and wife. He prays for dissolution of the marriage and custody of the minor child.

3. Upon being served, the respondent filed an answer to the petition and cross-petition. She denies all the allegations made against her in the petition. She cross-petitions for divorce on the grounds of adultery and cruelty. Although she has not named any one as a co-respondent, she accuses the petitioner of having affairs with women some of whom have been named in the petition. She alleged that the petitioner had assaulted her several times, abandoned her and her children to live with mistresses, among other claims. She would like the marriage dissolved on her grounds.

4. On 10th July 2014, the Deputy Registrar cleared the petition to proceed as defended. The Petitioner testified on 19th January 2017. His testimony gave vent to the allegations made in his petition. The respondent did not attend court eventhough she had been served. The petitioner's testimony went uncontroverted.

5. From the material placed before me it is clear to my mind that the marital relationship between the petitioner and the respondent has totally broken down. I am satisfied that the respondent has been cruel to the petitioner. I have noted that cohabitation has been broken, and parties have been apart since 2010 when the petitioner moved out of the matrimonial home. The marriage no doubt has practically come to an end.

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 13th December 2007, is hereby dissolved;

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

(c) That the matter of the minor child shall be addressed by the Children's Court in a suit properly brought in that behalf; and

(d) That there shall be no order as to costs.

DATED, SIGNED and DELIVERED at NAIROBI this 30TH DAY OF JUNE, 2017.

W. MUSYOKA

JUDGE