

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
FAMILY DIVISION
DIVORCE CAUSE NO. 72 OF 2014

A M M.....PETITIONER

VERSUS

M W K.....RESPONDENT

JUDGEMENT

1. Marriage was celebrated between the parties herein on 22nd February 1990 at the Office of the Registrar of Marriages at 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number [particulars withheld] was issued to them in accordance with the Marriage Act, Cap 150, Laws of Kenya (now repealed).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 various addresses within Kiambu County, Kenya. The couple was blessed with issue, two children – DWM and AMM, who were 15 and 11 years old, respectively, at the time the divorce papers were lodged herein on 28th March 2014.

2. In the petition herein, dated 26th March 2014, seeks dissolution of the marriage and custody of the children on two general grounds, cruelty and adultery. With regard to cruelty, it is pleaded that the respondent was dishonest with moneys given to her by the petitioner for investment, she would stay away for long periods of time from home, she insults and disrespects the petitioner and his parents, engaging in witchcraft, threatening to leave the marriage, deserting the matrimonial home, among others. With respect to adultery, it is alleged that she has been spending nights out of the matrimonial home, and has denied the petitioner his conjugal rights. It is pleaded that she left the matrimonial home in August 2011 never to come back.

3. The respondent did not appear nor file answer nor cross petition. Consequently, the Deputy Registrar, on 11th May 2016, cleared the cause to proceed as undefended.

4. The matter came up for hearing on 27th July 2017. The respondent had been served with a notice of hearing as per the affidavit of service filed herein on 11th July 2017. Service had been effected on counsel on 6th June 2017. The matter proceeded, with the petitioner giving his testimony. He breathed life to averments made in his pleadings.

5. 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 apart since August 2011. 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 22nd February 1990, is hereby dissolved;

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

(c) That the parties are hereby directed to place all or any issues relating to the children before the Children's Court; and

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

DATED, SIGNED and DELIVERED at NAIROBI this 19TH DAY OF OCTOBER, 2017.

W. MUSYOKA

JUDGE