

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

FAMILY DIVISION

Divorce Cause No. 42 Of 2013

SB.....PETITIONER

VERSUS

GSB also known as GSB 1.....RESPONDENT

JUDGEMENT

1. Marriage was celebrated between the parties herein on 27th July 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number [Particulars Withheld] was issued to them in accordance with the Marriage Act, Cap 150, Laws of Kenya (now repealed).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 Nairobi, Kenya. The couple was blessed with issue, two children – NK (born on 14th May 1991) and RB (born on 5th July 1994).

2. It is pleaded in the petition that since the celebration of the marriage the respondent has treated the petitioner with cruelty and has committed adultery, particulars whereof are set out in the body of the petition dated 30th February 2013 as amended on 9th December 2013. Dissolution of the marriage is sought on those grounds. She also prays for alimony and for injunctions to restraining the respondent interfering with her at the matrimonial home.

3. The divorce petition was served on the respondent. He filed an answer to the petition and a cross-petition, dated 25th April 2013 and amended on 10th April 2017. He denies the allegations made against him in the petition. He cross-petitions for dissolution the marriage on the grounds of constructive desertion and the irretrievable breakdown of the marriage. .

4. On 18th December 2013, the Deputy Registrar cleared the cause to proceed as defended.

5. The matter came up for hearing on 15th June 2017. Counsel for the petitioner stated that she had instructions to withdraw the petition and that she had filed a notice of withdrawal in court on 13th June 2017; while counsel for the respondent stated that he had a cross-petition on record which he was ready to prosecute. Following the said withdrawal, I allowed the respondent to proceed to prosecute his cross-petition. He gave vent to the allegations made in his petition, asserting that the marriage had irretrievably broken down.

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 apart for a long time. The marriage no doubt has practically come to an end.

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 27th July 1990, 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 at NAIROBI this 13TH DAY OF OCTOBER, 2017.

W. MUSYOKA

JUDGE