

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

MILIMANI LAW COURTS

FAMILY DIVISION

DIVORCE CAUSE NO.142 OF 2013

G.A.O.....PETITIONER

VERSUS

O.O.....RESPONDENT

JUDGMENT

1. On 14th January 2009 the petitioner and the respondent got married under the now repealed **Marriage Act (Cap 150)** at a ceremony conducted at the Registrar of Marriages Office at Nairobi. The couple subsequently co-habited as husband and wife at Riverside Drive and Westlands from January to September 2009 and thereafter in Birmingham (UK) from 2009 to September 2012. The petitioner and respondent are Kenyans. The former works in Uganda and the later works in the United Kingdom. Their marriage was blessed with a son (S.O.O.) who was born in 2010.

2. In the petition dated 10th July 2013 the petitioner sought the dissolution of the marriage on the grounds of adultery and cruelty, and listed the particulars. She asked for the child's maintenance but abandoned the claim during her testimony. Lastly, she asked for the costs of the petition. The petition was served on the respondent who failed to defend it.

3. The couple has been separated since September 2012, and have had no conjugal relationship since. The petitioner testified that in October 2009 she discovered the respondent had a girlfriend. The discovery made the respondent so angry that he violently shouted at her and smashed her mobile phone. In March 2011 she caught him dating a woman. When she tried to find out he got so angry that he broke her phone which he threw in the dustbin. He shouted at her, broke tables and verbally abused her. On different occasions in 2012 she discovered that he was having affairs with women whom she named in the petition. On cruelty, she testified how variously he had chased her from the house while calling her prostitute, stupid brain and a woman who knew nothing. In 2011, for instance, he chased her and her seven year old daughter from the house. He abused the daughter saying that she was stupid like the mother.

4. On this unchallenged evidence, I find that the respondent was guilty of adultery and cruelty. The petitioner stated that their marriage was broken beyond repair. I accept that evidence.

5. Consequently, I dissolve the marriage between the petitioner and the respondent. *Decree nisi* shall issue and become absolute after 30 days. The custody, care and control of the child S.O.O. is granted to the petitioner. Costs of the petition shall be paid by the respondent.

DELIVERED and SIGNED at NAIROBI this 26TH day of FEBRUARY 2016.

A.O. MUCHELULE

JUDGE