



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

FAMILY DIVISION

DIVORCE CAUSE NO. 223 OF 2014

N J K.....PETITIONER

VERSUS

S K B.....RESPONDENT

JUDGEMENT

1. Marriage was celebrated between the parties herein on 15th February 2008 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number [particulars withheld] was issued to them in accordance with the Marriage Act, Cap 150, Laws of Kenya (now repealed).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 [particulars withheld] in Nairobi, Kenya. The couple was blessed with issue – T K B – born on 28th August 2009.
2. It is pleaded that since the celebration of the marriage the respondent has treated the petitioner with cruelty. It is averred that the petitioner has neglected to provide for the petitioner and the child of the marriage, has been going out and not coming back home, comes home very late in the night or early morning while drunk, and has denied petitioner conjugal rights. It is alleged that he has committed adultery with several women; some of those named are Carol Atieno, Susan Karigo and Stela Lengima.
3. The petitioner pleads that on account of the cruelty and adultery pleaded she was forced to move out of the matrimonial home in September 2011, and she has lived separately from the respondent since then.
4. She also pleads that there is a pending children's case, being Nairobi Children's Court Children's Case No. 560 of 2013, where she seeks custody and maintenance of the child of the marriage.
5. On 5th November 2015, the Deputy Registrar cleared the petition to proceed as undefended.
6. The Petitioner testified on 3rd March 2016. Her testimony gave vent to the allegations made in her petition. She added though that she attempted to reconcile with the respondent to no avail. She also testified that the respondent has been using force in trying to get her to resume cohabitation. He goes to her work place and causes trouble, including assaulting a colleague of hers on accusations of infidelity. He is said to pay security to trail her around.
7. Although there is a prayer for maintenance of the petitioner by the respondent, the petitioner withdrew that prayer at the hearing. She stated that she did not want the respondent to maintain her so long as he maintained the child of the marriage.

8. From the material placed before me it is plain 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. The adultery alleged has not been proved. I have noted that cohabitation has been broken, and parties have been apart for five (5) years. The marriage no doubt has practically come to an end.

9. In the circumstances, I am moved to make the following final orders:-

(a) That the marriage between the petitioner and the respondent, celebrated on 15th February 2008, 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 18TH DAY OF NOVEMBER, 2016.

W. MUSYOKA

JUDGE