

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

MILIMANI LAW COURTS

FAMILY DIVISION

DIVORCE CAUSE NO. 38 OF 2015

A.L.T.....PETITIONER

VERSUS

A.H.....RESPONDENT

JUDGMENT

1. The petitioner A.L.T. and the respondent A.H. got married on 21st January 2011 at the Registrar of Marriages office at Nairobi under the **Marriage Act (Cap 150)** (now repealed). They lived and cohabited in an apartment on Mvuli road, Westlands in Nairobi. The marriage was not blessed with any children. On 18th February 2015 the petitioner filed this petition seeking the dissolution of the marriage on ground of cruelty whose particulars were pleaded. She also sought other prayers which she abandoned during the hearing of the Cause.

2. The respondent was served with the petition but did not enter appearance or file an answer. The Cause proceeded as undefended, and therefore the petitioner's evidence was not challenged.

3. According to the petitioner, in January 2011 the respondent left to go and set up business in Malawi and promised to return. He instead settled in Malawi, and only visited for two weeks or so after six months. Most of the time when he returned he stayed at his parents' house. The last time he visited the petitioner was in May 2013, and that was the last time there was sexual interaction. It was the petitioner's case that the respondent was no longer interested in her. Whenever he visited he would stay alone in a room, smoking. He would not talk to her and they had no social life together. He would not even want to have dinner with her. These acts, according to the petitioner, amounted to cruel treatment.

4. I accept that the respondent's conduct and actions, taken together, amounted to cruelty. The petitioner was neglected and treated with contempt. The parties have lived separately for about three years, and the marriage has broken down beyond repair. I order the dissolution of the marriage between the petitioner and the respondent. *Decree nisi* shall issue immediately and shall become absolute after 30 days.

DATED and DELIVERED at NAIROBI this 15TH DECEMBER 2016

A.O. MUCHELULE

JUDGE