



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI

DIVORCE CAUSE NO. 50 OF 2015

BETWEEN

K M F.....PETITIONER

AND

M I S.....RESPONDENT

JUDGEMENT

1. The Petitioner then a bachelor and the Respondent then a spinster were married on 9th November, 1991 at [particulars withheld] in Meru. A certificate of marriage serial Number [particulars withheld] was issued to them in accordance with the **Marriage Act (Cap 150 Laws of Kenya)**. The couple thereafter cohabited in various places and more particularly Nairobi. They were blessed with two issues of the marriage, who were aged as follows at the time of filing Petition.

i) M M M 23 years old.

ii) M M M 20 years old.

2. The Petition filed on 19th March 2015 is premised on grounds of cruelty by the Respondent as particularised in the Petition. The Petitioner states that since the celebration of their marriage to date, the Respondent on various occasions subjected the Petitioner to cruelty, quarrels, unreasonable behaviour and untrue suspicions to a point where the Petitioner suffered mental stress with resulting into ulcers.

3. The Petitioner complained that the Respondent would confront any Petitioner's female friends and in particular his colleagues and accuse them of having extra marital affairs with the Petitioner. That the Respondent's behaviour caused the Petitioner to suffer embarrassment at his work place, and this affected his carrier seriously.

4. The Petitioner urged that due to the aforesaid acts of cruelty he strongly feels that they cannot continue to hold out as husband and wife with the Respondent. He, has therefore, asked the court to dissolve the marriage between him and the Respondent.

5. The Petitioner confirmed that this Petition had not been presented or prosecuted in collusion with the Respondent, nor had he connived or condoned the acts of cruelty complained of.

6. On 1st October, 2016 the Deputy Registrar certified that the matter was suitable to proceed for hearing as an undefended cause for one day in Nairobi. During the hearing on 24th November, 2016 the Petitioner testified that attempts to reconcile with the Respondent by both the family members and their

Pastors had failed.

7. The Respondent was served with the petition and Notice to appear on 23rd April, 2015 as evinced by the affidavit of service sworn on 18th May 2015 and annexed to the affidavit in support of the Chamber Summons dated 19th May 2015 seeking directions. That the Respondent has not filed an answer to the Petition nor did she appear in court.

8. I have perused the grounds of the petition and the uncontested evidence of the Petitioner. Matrimonial offences as provided under **section 66(2)** of the **Marriage Act, 2014** are as follows:

- “(a) adultery by the other spouse;**
- (b) cruelty by the other spouse;**
- (c) exceptional depravity by the other spouse;**
- (d) desertion by the other spouse for at least three years; or**
- (e) the irretrievable breakdown of the marriage.”**

9. It is not denied that the parties have not cohabited since the year 2010 to date due to irreconcilable differences. From the foregoing the Petitioner has proved that the marriage celebrated between the parties herein celebrated on 9th November, 1991 cannot work and has irretrievably broken down with no hope of being salvaged.

10. In the premise I find that the Petition has merit and allow it with orders as follows:

- a) That the marriage celebrated between the Petitioner and the Respondent at the [particulars withheld] in Meru on 9th November, 1991 is hereby dissolved.
- b) That Decree nisi dissolving the said marriage is hereby issued to be made absolute thirty (30) days from the date of this judgment.
- c) There shall be no orders as to costs.

SIGNED DATED and DELIVERED in open court this **8th day of December, 2016.**

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L. A. ACHODE

JUDGE

In the presence ofAdvocate for the Petitioner