



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
DIVORCE CAUSE NO. 159 OF 2014

BETWEEN

J M KPETITIONER

AND

J A MRESPONDENT

JUDGEMENT

1. On 4th September 1993 the Petitioner, then a bachelor known as J M K, was lawfully married to the Respondent J A M then a spinster and a certificate Serial No. **[Particulars withheld]** issued to them in accordance with the **Marriage Act Cap 150 Laws of Kenya**. The marriage was celebrated at Queen of Apostles Catholic Church, Ruaraka Parish in Nairobi and thereafter they cohabited as husband and wife in Ngumba and Zimmerman Estates in Nairobi respectively.

2. They were blessed with three issues of the marriage, who were aged as follows at the time of filing this cause:

- 1) C G M aged 21 years
- 2) B K M ages 18 years
- 3) R A M aged 15 years.

Both the Petitioner and Respondent are domiciled in Kenya where the Petitioner is a member of the **[particulars withheld]** and the Respondent is a house wife.

3. On 17th July 2014 the Petitioner filed a petition seeking the dissolution of their marriage on grounds that since the celebration of their marriage the Respondent has treated the Petitioner harshly and subjected him to cruelty, emotional and psychological torture, harassment and distress. In the particulars of cruelty set out on the Petition the Petitioner avers that the Respondent completely withheld conjugal rights from him, causing him immense emotional stress. That the Respondent is a violent woman of ungoverned temper, who employed abusive and insulting language against the Petitioner. Further that the Petitioner engaged in acts of witchcraft and visiting and consulting witchdoctors during the subsistence of the marriage.

4. The Petition is supported by the Petitioner's affidavit sworn on 16th July 2014 in which he reiterated the contents of his Petition.

5. On 4th December 2014 the Deputy Registrar certified that the matter was suitable to proceed for hearing as an undefended cause for one day in Nairobi. The Petitioner testified on 22nd January 2015 and still reiterated what he had set out in the Petition and supporting affidavit. He also testified that they have not been in cohabitation since the year 2003 and that he has since bought a separate house for the use of the Respondent and the children of the marriage whom he still maintains.

6. The Respondent was served with the Petition through the notice dated 22nd July 2014. She did not file any answer nor did she appear in court to testify, although she had been served with a hearing notice as may be seen from the affidavit of service dated 13th November 2014.

7. The Petitioner therefore prays that the marriage celebrated between him and the Respondent be dissolved. He confirms that this Petition has not been presented or prosecuted in collusion with the Respondent, neither has he connived or condoned the acts of cruelty which he has complained of in the petition. He also certifies that there have been no previous proceedings filed regarding the marriage.

8. From the foregoing it is my considered view that the marriage between the Petitioner and the Respondent has irretrievably broken down and has no hope of being salvaged. In the premise the orders which do commend themselves to the circumstances of this case are as follows:

- a) That the marriage celebrated between the Petitioner and the Respondent at Queen of Apostles Catholic Church, Ruaraka Parish in Nairobi on 4th September 1993, 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 **29th day** of **January 2015**.

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L. A. ACHODE

JUDGE