

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

DIVORCE CAUSE NO. 257 OF 2013

S K T.....PETITIONER

VERSUS

Y M M.....RESPONDENT.

JUDGMENT

1. The Petitioner has filed a petition dated 17th December 2013 seeking the dissolution of his marriage to the respondent. He states in the petition that on 26th February 2002 at the Registrar's Office in Nairobi District in the Republic of Kenya he married Y M M. That after the marriage the Petitioner and the respondent lived and cohabited as husband and wife at South C Highway Estate Nairobi. That there is one issue of the marriage namely D R T. That the marriage has continued to deteriorate with little or no communication between the petitioner and the respondent. That the marriage between the petitioner and the respondent has broken down irretrievably. That on diverse dates and occasions since the celebration of the marriage the respondent has treated the petitioner with cruelty and has been unfaithful to the petitioner. The particulars of cruelty and unfaithfulness are stated at paragraph's 8 I to xxxvi of the petition.

2. The Respondent was served with the petition but did not respond. The matter proceeded as an undefended cause after the Registrar issued the certificate.

3. The cause came up for hearing on the 25th of February 2015. The petitioner testified as follows; the respondent and him got married on the 26th of February 2002 at the Attorney General's office and thereafter they lived in South C as husband and wife. They have one child a boy called Derrick Ruto who is now 12 years old. That at one time during their marriage the respondent arranged to have him kicked out of their home. This happened after he lost his job in 2002. He travelled to the UK with her permission to look for a job and on returning he realized that there was infidelity going on. He would visit whilst in the UK and find morning after pills and on asking her what was happening she would be rude and cruel. She would spend night out of their matrimonial home. Then one Sunday morning they were visited by her uncles and he was asked to leave. He was told that their marriage had ended. She refused to sort things out. They have not lived together since then. All that happened caused him emotional distress and harm and he lived in misery. He had hoped to have happy marriage but it did not work he has the custody of their child. He has not filed the petition in collusion with the respondent. He asked that their marriage be dissolved as it is beyond repair, that it has broken down irretrievably.

4. It is evident that the marriage between the petitioner and the respondent has irretrievably broken down. The petitioner has narrated incidents of cruelty in the marriage. He was chased from their matrimonial home by the respondent. The manner in which it was done was cruel. The petitioner testified that the respondent's actions caused him emotional distress and that he lived in misery. Cruelty is a ground for divorce provided for under the Matrimonial Causes Act Cap 152 (now repealed) and also the Marriage Act 2014. I therefore dissolve the marriage between the petitioner and the respondent that was celebrated at Nairobi on the 26th of February 2006 celebrated at the Registrar's Office in Nairobi district in Kenya. A decree nisi to issue and to be made absolute within 30 days. No orders as to costs. It is so ordered.

Signed, dated and delivered this 27th Day of *March* 2015.

R. E. OUGO

JUDGE

In the presence of:

.....**PETITIONER**

.....**RESPONDENT**

.....**COURT CLERK**