



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**

**DIVORCE CAUSE NO. 86 OF 2014**

**A M.....PETITIONER**

**VERSUS**

**R E K.....RESPONDENT**

**JUDGMENT**

1. The Petitioner has filed a divorce petition dated 22<sup>nd</sup> April 2014 seeking to have the marriage between her and the respondent dissolved. She avers that she got married to the respondent R E K on 28<sup>th</sup> July 2009 in a Christian ceremony and issued with a certificate No. *[particulars withheld]*. Soon thereafter the petitioner and the respondent lived and cohabited as husband and wife in Nairobi for 2 years before the respondent moved out of the matrimonial home in October 2011. That since the celebration of the said marriage the respondent has threatened the petitioner with extreme cruelty and willful emotional, physical and psychological neglect.
2. She stated particulars of cruelty as follows;

That sometime in 2011 the respondent went to the matrimonial home at night and in a fit of rage started physically abusing the petitioner locking her out in the rain while only wearing only her night dress; that on various occasion the respondents wrote emails to the petitioner's friends detailing the issues in their marriage thereby causing her great embarrassment; that the respondent changed his religion without consulting the petitioner; that the respondent used foul language against the petitioner in presence of relatives and public without any justifiable cause and has threatened the petitioner with dire consequences and exhibited utmost contempt and disrespect towards the petitioner and this has forced her to become a social recluse which has caused her a lot of mental anguish and pain. That the respondent denied the petitioner her conjugal rights and has failed to provide her with any emotional support, love or care. That the respondent has failed to offer modicum of consortium and society as would be expected in any union of marriage. Failing to be ward, open and accommodative to the petitioner as would be expected in a marriage union. Failing to render any empathy, emotional needs for love and companionship and denying the petitioner her marital companionship.

**3. Particulars of willful Neglect**

- i. The respondent as neglected the petitioner's feelings and desires and has continued to expose the petitioner to great emotional is distress which scenario is severely detrimental to the petitioner's welfare and wellbeing.
- ii. The respondent has willfully and without reasonable cause or justification chosen to abdicate his spousal responsibilities to the petitioner without due regard to the petitioner's welfare.

4. The petitioner claims that the matters aforesaid have led to the immense and substantial and irretrievably break down of the relationship of the marriage between her and the respondent. That the same has not been brought with collusion of the respondent and neither has she condoned or been an accessory to the acts of cruelty and willful neglect and prays that the court dissolves the marriage between the petitioner and respondent celebrated on 28<sup>th</sup> July 2009 and the respondent be condemned to pay costs.
5. The respondent despite being served with the said petition did not file any reply or cross petition. The same was certified as unopposed and the Deputy Registrar on 25<sup>th</sup> September 2014 issued a certificate that the same proceeds as an undefended petition.
6. The matter was heard on 25<sup>th</sup> February 2015. The petitioner in her testimony reiterated the averments of her petition. She testified that most of the times they had fights which later on progressed to become more aggressive and physical and at times after an argument the respondent would lock her out of the house and she would be forced to seek refuge from the neighbors. That though there was no physical abuse he had threatened to kill her and himself. That the issue started in 2009 and when she would arrive from work the respondent would go through her contacts and would ask her affiliation with them and would even tap to her phone and personal emails where he would send emails to other people pretending to be her and giving details of the issues they were having in their marriage. On asking him this would lead to arguments and the respondent would become abusive. That they separated in 2011 after all efforts to reconcile failed and the respondent just left.
7. It is evident that the marriage between the petitioner and the respondent has irretrievably broken down. The petitioner has narrated incidents of cruelty and willful neglect during the marriage. 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 28th July 2009. A decree nisi to issue and to be made absolute within 30 days.

Signed, dated and delivered this **26<sup>th</sup>** Day of **March** 2015.

**R. E. OUGO**

**JUDGE**

In the presence of:

.....**Applicant**

.....**Respondent**

.....**Court Clerk**