



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI

DIVORCE CAUSE NO. 182 OF 2013

BETWEEN

P CPETITIONER

AND

S ARESPONDENT

JUDGEMENT

1. On 11th June 2010 the Petitioner, then a spinster known as P C, was lawfully married to the Respondent S A then a bachelor 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 the Office of the Registrar in Nairobi and thereafter they cohabited as husband and wife in Kajiado County. They have one issue of the marriage namely, E A born on 22nd November 2008.
2. Both the Petitioner and Respondent are domiciled in Kenya where the Petitioner is a marketer with *[particulars withheld]* in Nairobi and the Respondent is a businessman in Nairobi.
3. On 20th August 2013 the Petitioner filed a petition seeking the dissolution of their marriage on grounds that since the celebration of their marriage the Respondent has treated her with cruelty. In the particulars of cruelty set out in the Petition the Petitioner avers that the Respondent is of bad temperamental habits, character and disposition, he becomes agitated without cause towards the Petitioner, he frequently orally insults and physically abuses and threatens to cause grievous harm to the Petitioner. She also avers that the Respondent is rude and abusive to her and has never, since the celebration of the marriage accorded her any respect as his wife. Further that in 2007, the Respondent twisted her arm threatening to break it in the full glare of her friends. That he had come home drunk and assaulted the Petitioner and it took the intervention of her parents to save her.
4. The Petitioner further averred that the Respondent had extra marital affairs with different women, some of whom were well known to her and that he sired a child with one of them known as M G. That he did not provide for his family and particularly his wife's financial and emotional needs. That the Petitioner decided to go back to her parents for the sake of her safety and that of her child and only returned to her matrimonial home out of pity to take care of the Respondent after he was involved in an accident which rendered him incapacitated. She states that on 20th February 2011 they had a confrontation in which the Respondent took a knife and threatened to kill the Petitioner in full view of their child thereby traumatizing the child.
5. On 2nd October, 2014 the Deputy Registrar certified that the matter was suitable to proceed for

hearing as a defended cause for one day in Nairobi. The Petitioner testified on 16th April 2015 and reiterated what she had set out in the Petition and verifying affidavit. She also testified that they have not been in cohabitation for three years.

6. The Respondent was served with the Petition through the notice dated 28th August 2013. In his answer to the petition the Respondent confirms that they have lived apart for three years but states that the Petitioner on her own motion left the matrimonial home together with the issue of marriage and has never returned, despite considerable effort by the Respondent and his relatives to beseech her to return. The Respondent denies the allegations of cruelty and states that he is a religious man who has control over his anger/or emotions and that he has since been able to progressively tame his drinking habit. He also denies having been involved in extra-marital affairs during the subsistence of the marriage and avers that he took care of the Petitioner and their child by paying for utility bills, food and clothing.
7. The Respondent further averred that the Petitioner has always made irrational decisions without consulting him and on several occasions left the matrimonial home for several weeks and sometimes months without any reasonable explanation. That she used abusive words to the Respondent in the presence of the minor, and used her friends to spy on the Respondent in total disregard to his right of privacy. That she hurled filthy words at the Petitioner's female friends. Further that the Petitioner, without any justifiable cause, packed her belongings and vanished from the matrimonial home in February 2011.
8. Both parties therefore pray that the marriage celebrated between them be dissolved. They confirm that this Petition has not been presented or prosecuted in collusion with the each other neither have they connived or condoned the acts of cruelty which each has complained of. They both certify that there have been no previous proceedings filed regarding the marriage and pray to be granted equal parental responsibility of the issue; E A.
9. From the foregoing it is my considered view that the marriage between the Petitioner and the Respondent has irretrievably broken down and is no longer in existence. There is therefore no hope of salvaging it. 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 the Registrar's office in Nairobi on 11th June 2010, is hereby dissolved.
 - b. That matters concerning the custody and maintenance of the issues of the marriage shall be determined by the Children's Court.
 - c. That Decree Nisi dissolving the said marriage is hereby issued, to be made absolute thirty (30) days from the date of this judgment.
 - d. There shall be no orders as to costs.

SIGNED DATED and DELIVERED in open court this **30th day of April 2015.**

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L. A. ACHODE

JUDGE