



**REPUBLIC OF KENYA**

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

**DIVORCE CAUSE NO. 102 OF 2014**

**BETWEEN**

S M S .....PETITIONER

**AND**

E O N.....RESPONDENT

**JUDGEMENT**

1. On 12<sup>th</sup> December 2008, the Petitioner, then a spinster known as S M S was lawfully married to the Respondent E O N 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 in the Church of Jesus Christ of Latter Day Saints in Nairobi and thereafter they cohabited as husband and wife in Riruta, Kenyatta National Hospital Doctors' quarters, Westlands, and Lighthouse Doctors' quarters, Mombasa respectively. They adopted a female child namely, L M N born on 4<sup>th</sup> January 2012.
2. Both the Petitioner and Respondent are domiciled in Kenya where the Petitioner is a **[particulars withheld]** and the Respondent is an **[particulars withheld]** specialist.
3. The Petition filed on 14<sup>th</sup> May 2014 is premised on grounds of cruelty and desertion. The acts of cruelty set out are that throughout their marriage, the Respondent has been verbally abusive to the Petitioner, he did not take responsibility during and after the adoption of the child, absents himself without any reason or notice, does not support the family and is rude and uncooperative.
4. The Petitioner further stated that during the subsistence of the marriage, the Respondent admitted to having been in extra marital affairs with other women but was not remorseful of his immoral behaviour. That he created pointless and endless quarrels and petty fights for no reason. That he would often return home in the wee hours of the night. That he refused to accompany the Petitioner for studies abroad, despite being unemployed. That the Petitioner's effort to salvage the marriage has been rendered futile and that she has suffered untold mental anguish and agony.
5. The Respondent in his answer to the petition denied the allegations of cruelty and desertion. He averred that the Petitioner had denied him conjugal rights, refused to cook for him and the issue, locked him out of the matrimonial bedroom and forced him to sleep on the sofa. That the Petitioner consistently picked quarrels with him, displaying ungovernable temper and sometimes remained totally incommunicado. Further that the Petitioner denied him access to the issue of the

marriage even when she was outside the country.

6. On 25<sup>th</sup> September 2014 the Deputy Registrar certified that the matter was suitable to proceed for hearing as a defended cause for one day in Nairobi. On 9<sup>th</sup> March 2015, counsels for both parties agreed that the Petitioner would testify while the Respondent's Answer to the petition and cross petition would be adopted in evidence. In her viva voce evidence the Petitioner reiterated what she had stated in the petition, while the Respondent relied entirely on his answer to the petition and the cross-petition.
7. Both the Petitioner and the Respondent confirm that this Petition and cross-petition have not been presented or prosecuted in collusion with one another, nor have they connived or condoned the acts of cruelty and adultery which each has complained of. They also certify that there have been no previous proceedings filed regarding the marriage, and confirm that attempts at reconciliation have failed. They both pray that the marriage be dissolved.
8. From the foregoing it is evident that the marriage between the Petitioner and the Respondent has irretrievably broken down and has no chance of being salvaged. In the premise I order as follows:
  - a. That the marriage celebrated between the Petitioner and Respondent at the Registrar's office in Nairobi on 12<sup>th</sup> December 2008, 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 30<sup>th</sup> day of April 2015.**

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**L. A. ACHODE**

**JUDGE**