



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI

DIVORCE CAUSE NO.48 OF 2014

C K T.....PETITIONER

VERSUS

B M M.....RESPONDENT

JUDGMENT

1. The petitioner filed a petition dated the 6th March 2014 seeking to have the marriage between herself and the respondent to be dissolved. The petitioner married the respondent on the 19th October 1998 and the marriage was solemnized at Superintendent Registrar's Office, Nakuru District. During the continuance of the marriage the petitioner and respondent cohabited at Section 58 Nakuru Town and at Tena Estate, Nairobi. The petitioner and the respondent have one issue of the marriage namely, S N born on 10th April 1995.

2. The Petitioner avers that since the celebration of the marriage the Respondent has treated her with cruelty. The particulars of the alleged cruelty are deposed at paragraph 6 a to d of the petition as follows;

Particulars of Cruelty

- i. The respondent neglected the Petitioner's emotional needs creating emotional disconnect between the parties.
- ii. The Respondent failed to take up financial responsibility for the family causing the petitioner to bare the bulk of expenses.
- iii. Failing to communicate effectively with the petitioner resulting in constant strife.
- iv. Being a source of distress to the petitioner by reason of the emotional and financial disconnect.

3. The petitioner also avers that on or about the month of August 2005 she moved out of the matrimonial house for reasons of breakdown in the marriage. She had deposes that the marriage between her and the respondent has irretrievably brown down, that she has not condoned and is not accessory to the Respondent's desertion.

4. The petitioner prays for orders that the marriage between the Petitioner and the respondent be dissolved on the grounds disclosed in the petition and that costs be provided.

5. The Respondent upon being served engaged a lawyer who filed a memorandum of appearance on the 22nd of July 2014. On the 6th of November 2014 the Deputy Registrar certified that the pleadings were in order and ordered that the cause proceeds as an undefended cause here in Nairobi.

6. On the 23rd of April 2015 the petitioner testified as follows in Court; that she married the Respondent

as averred in the petition on the 19th of October 1998. That they have a daughter who has just turned 20 years old. That they longer live together and that they have been living apart for the last (10) ten years, as they been separated since 2005. That she did not have a happy marriage, they used to fight and quarrel a lot. That there reached a point when she and her daughter lived in fear and that they had a lot of emotional distress. That the respondent contributed very little financially and he would travel a lot. That they quarreled about rent fees and that he did not take care of her needs, he was not there for them emotionally. As a result they drifted apart.

7. That they tried to talk but he was not ready. That there are no chances that they will reconcile as she has tried to reach out to him but he is not interested. That he was not even looked for them since their separation, and after 10 years he is a complete stranger to her.

8. The petitioner's averments and evidence were not controverted by the respondent. It is evident that the marriage between the petitioner and the respondent has irretrievably broken down. The petitioner and the respondent have not been living together from 2005. Section 8 of the Matrimonial Causes Act (now repealed) outlines grounds of divorce. Section 66 of the Marriage Act 2014 outlines the grounds of divorce one of them being that the marriage has irretrievably broken down. The petitioner and the respondent have been apart for the last 10 years, it's apparent that there is no possibility of reconciliation and the respondent is no longer interested in neither her nor their daughter. The petitioner testified that the respondent's acts of cruelty made the live in fear which culminated in her leaving the matrimonial home. I find that the petitioner have proved her grounds of divorce. I therefore dissolve the marriage between the petitioner and the respondent solemnized at Superintendent Registrar's office Nakuru on the 19th of October 1998. A *decree nisi* to issue and to be made absolute within 30 days from the date hereof. No order as to costs. It is so ordered.

Dated, signed and delivered this 29th day of May 2015.

R. E. OUGO

JUDGE

In the presence of:-

.....**For the Petitioner**

.....**For the Respondent**

.....**Court Clerk**