

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

DIVORCE CAUSE NO. 170 OF 2014

C A.....PETITIONER

VERSUS

L O O.....RESPONDENT

JUDGMENT

1. The petitioner and respondent got married on 18th of December 2009 the petitioner married to the respondent at the Attorney General's Chambers under the Marriage Act (Cap 150). After the celebration of the said marriage the petitioner and the respondent resided at Umoja one estate in Nairobi County. The petitioner filed a divorce petition on 13th August 2014 seeking orders that the marriage between her (the Petitioner) and the Respondent be dissolved on the grounds of cruelty, adultery and desertion by the respondent.

2. She particularized cruelty, adultery and desertion as follows; That the respondent has neglected, failed and or refused to provide any emotional, psychological and or financial support to the petitioner during the subsistence of the marriage. That the petitioner during the subsistence of the marriage has been in a sexual escapade with other women known and unknown to the petitioner thereby causing her psychological trauma to the petitioner. That the respondent has constantly used abusive languages or inhumane acts against the petitioner. That the respondent deserted the matrimonial home for the last three years preceding the filing of this petition. That the respondent has entered into an unlawful union with another unknown woman thereby resulting to an intimate relationship as a result of which the respondent has fathered a child conceived and born out of wedlock. That the petitioner's efforts to attempt reconciliation have not been successful as the respondent has shown unwillingness to cooperate and participate in this reconciliation attempts. That all along since the date of the marriage the petitioner has wholeheartedly devoted her love and affection and provided moral and material assistance to the respondent. That in light of the foregoing the petitioner states that the marriage has completely and irretrievably broken down. That the petitioner has not in any way or manner been an accessory to the respondent's acts.

3. The petitioner therefore prays that the marriage between her and the petitioner and the respondent celebrated on the 18th of December 2009 be dissolved. The marriage certificate No. **[particulars withheld]** issued to the petitioner and respondent be cancelled forthwith. That the respondent be condemned to pay costs of this cause.

4. The respondent was served with the notice to enter appearance dated 11th September 2015 as evidenced by the affidavit of service filed on 14th January 2014 but did not enter appearance. The Registrar certified that the matter proceed as undefended.

5. The petitioner alleges cruelty, adultery and desertion by the respondent as grounds for divorce. Cruelty, adultery and desertion are grounds for divorce provided for under the Marriage Act 2014. The petitioner in her testimony stated that after the said marriage she and the respondent lived as husband and wife from 2009 to 2012 when she found out that he had another wife and 2 children and on inquiring he beat her. That on calling the lady she confirmed that that they were together she left and the respondent got married again. The said evidence was not controverted. From the petitioner's testimony it is evident that the

respondent committed adultery was cruel to the petitioner and has abandoned the petitioner and the matrimonial home. From the foregoing it is evident that the marriage between the parties has irretrievably broken down and there is no possibility of reconciliation. This court therefore dissolves the marriage between the Petitioner and the Respondent celebrated on 18th December 2009. A *decree nisi* to issue forthwith and to be made absolute within 30 days. No orders as to costs. It is so ordered.

Dated, signed and delivered this 18th day of *June* 2015.

R. E. OUGO

JUDGE

In the presence of:-

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

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

.....**Court Clerk**