

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

MILIMANI LAW COURTS

FAMILY DIVISION

DIVORCE CAUSE NO. 243 OF 2013

C.K.K.....PETITIONER

VERSUS

E.C.RESPONDENT

JUDGMENT

1. The Petitioner and the respondent, both Kenyan citizens, got married in August 2009 under Kalenjin customary law. They formalized the marriage at Attorney General's office in Nairobi on 12th January 2011. The petitioner and the respondent cohabited as husband and wife at Kitengela until 18th September 2013 when cohabitation ceased. The marriage was blessed with one issue, a minor born on 2nd July 2010. The petitioner is a businessman by profession while the respondent is a receptionist at *[particulars withheld]*.

2. The petitioner filed this petition on 18th November 2013 seeking the dissolution of the marriage on the ground of cruelty. The petition was served but did not elicit any response. The petitioner's evidence was thus not challenged.

3. The petitioner's evidence was that the respondent is temperamental and can damage everything in the house including TV when angry. She is a drunkard who often comes home late in the night and does not respect him. He further testified that he had found text messages on her phone between her and one M which showed that they had love affair. He asked his parents to mediate on the issue, but the respondent left the matrimonial home for two weeks saying that the petitioner should instead stay with the said parents. When they were living in Kitengela near a river the respondent would threaten to commit suicide by saying she would jump into the river. He further stated that the respondent locked him outside the house in the evening on several occasions which caused him a lot of stress and resulted in him getting high blood pressure. It was his case that the marriage cannot be reconciled, and that it has irretrievably broken down. It is for these reasons that he sought divorce, and a restraining order as the respondent sends him abusive messages and calls during strange hours to abuse him.

4. I accept the petitioner's evidence and find that cruelty has been proved against the respondent. The marriage between the two has broken down beyond repair. I order the dissolution of the same. *Decree Nisi* shall issue and become absolute after 30 days. The respondent shall be permanently restrained from calling the petitioner with the sole intention of abusing or harassing him. Costs shall be borne by the respondent.

DATED and DELIVERED at NAIROBI this 30th day of July 2015

A.O. MUCHELULE

JUDGE