

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KAKAMEGA

DIVORCE CAUSE NO 2 OF 2012

C. M.B.....PETITIONER

AND

E.O.A.RESPONDENT

JUDGMENT

1. On the 16/11/2007, the parties herein who had so cohabited together since 2002, solemnized their marriage at the Office of the Registrar of Marriages, Kakamega District. A Certificate of Marriage serial number (*particulars withheld*) was issued to them in accordance with the Marriage Act.
2. The couple then set up their matrimonial home at Butere and was blessed with two children.
3. On the 28/02/2012, the Petitioner filed a Petition where she accused the Respondent of desertion and cruelty. It is alleged that the Respondent deserted the matrimonial home in August 2008 and went to leave elsewhere thereby effectively denying the Petitioner her conjugal rights. Further, it is alleged that the Respondent has after the solemnization of the marriage with the Petitioner treated the Petitioner with cruelty.
4. Upon service of the Petition, the Respondent entered appearance filed a Replying Affidavit to the Petition. The Respondent never filed any Cross – Petition.
5. On the 30/04/2015, the Court gave directions that this Petition do proceed as a defended cause and set the hearing for 13/05/2015.
6. At the hearing, the Petitioner ventilated the allegations in the Petition and though the Respondent was represented in Court, the Petitioner was not cross-examined. The Petitioner’s evidence therefore remains unchallenged.
7. It is quite clear that the marriage between the parties herein has irretrievably broken down. I am also satisfied that there has been no collusion between the parties in bringing the proceedings. There is also no evidence that the Petitioner has condoned the desertion and cruelty in the Petition and as proved in Court.
8. The upshot is that the marriage celebrated between the Petitioner and the Respondent on the 16/11/2007 be and is hereby dissolved. A *decree – nisi* to issue forthwith which shall be made absolute after forty-five (45) days.
9. Each party to bear its costs.

DATED, SIGNED AND DELIVERED AT KAKAMEGA THIS 23rd DAY OF July, 2015

A. C. MRIMA

JUDGE