

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

DIVORCE CAUSE NO. 130 OF 2014

P O A.....PETITIONER

VERSUS

R A O.....RESPONDENT

JUDGMENT

1. The Petitioner filed a petition dated 4th June 2014 seeking the dissolution of his marriage to the Respondent. The Petitioner and the respondent got married on 8th September 1995. It is averred that after the celebration of the said marriage they cohabited in various places in Nairobi. The marriage was blessed with 4 children named; D O, S A, D C and S A.
2. The petitioner avers that the respondent since the celebration of the said marriage has treated him with cruelty. He particularized the said cruelty as follows; uttering hurtful words to the effect that she would rather die than continue living with him and interfered with the petitioner while he was driving causing him to veer off the road and land in a ditch. That the respondent has fabricated lies about their marriage to her family, friends and the petitioner's bosses to the effect that the petitioner was abusive and had infected her with a sexually transmitted disease. That since 2009 the respondent had continued making verbal insults and accusing him of infidelity even in the presence of the children of the marriage and even schemed with the children that they were mentally disturbed so that they can reject the schools they were enrolled in with the sole aim of intimidating him. That in 2013 the respondent subjected him to physical abuse which led him to break his index finger as a result of the aforementioned he suffered much stress and anger which affected his duties at the workplace and further caused him self-esteem resulting into emotional and nervous breakdown. He denied condoning the said cruelty and urged the court to dissolve the marriage between him and the respondent and cost of suit.
3. The respondent despite being served with the said petition did not enter appearance and the Registrar issued a certificate that the same proceed for hearing as an undefended cause.
4. The cause was heard on 23rd July 2015. The petitioner reiterated the averments of his petition. He testified that though the respondent had the children of the marriage he was paying the rent of the house where they stay and also paying the school fees for the children.
5. The petitioner seeks a divorce on grounds of cruelty. Cruelty is a ground for divorce as provided for under Section 66(b) of the Marriage Act 2014. The petitioner's evidence is not challenged and from the averments and the petitioner's testimony the instances given in my view amount to cruelty as such I find the petitioner has proved that the respondent has been cruel to him and it is also evident from the same that the marriage between the petitioner respondent has irretrievably broken down. I therefore dissolve the marriage between the petitioner and the respondent that was celebrated on the 8th September 1995. A decree nisi to issue forthwith and to made absolute within 30 days. Each party to bear its own costs. It is so ordered.

Dated, signed and delivered this 24th day of *September* 2015.

R. E OUGO

JUDGE

In the presence of:

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

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

..... **Court Clerk**