



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI

DIVORCE CAUSE NO. 92 OF 2014

BETWEEN

M A KPETITIONER

AND

G M.....RESPONDENT

JUDGEMENT

1. Marriage was celebrated between the parties herein on 20th April 2007. The Petitioner, then a spinster known as M A K, was lawfully married to the Respondent G M then a bachelor and a certificate Serial No. [particulars withheld] issued to them in accordance with the **Marriage Act (Cap 150 Laws of Kenya)**. The marriage was celebrated at [particulars withheld], Nairobi and thereafter they cohabited as husband and wife in [particulars withheld], Nairobi. They were blessed with one issue of the marriage, namely M W.
2. Both the Petitioner and Respondent are domiciled in Kenya where the Petitioner is an Actuary while the Respondent is a Marketer.
3. The Petition was filed on 30th April 2014 and is premised on a litany of grounds of cruelty. The acts of cruelty set out are that since the celebration of the marriage, the Respondent has subjected the Petitioner to physical abuse and humiliation. The Petitioner stated that the Respondent was a senior employee of [particulars withheld], and in 2009 he lost his job under suspicious circumstances which he did not disclose to the Petitioner and thus occasioning her mental and emotional anguish.
4. The Petitioner states that the Respondent blamed the Government of Kenya and the National Security Intelligence Services through the internet claiming that they were after him and thus subjected the Petitioner ridicule and embarrassment.
5. The Petitioner further stated that the Respondent abdicated his fatherly and husband responsibilities by failing to meet his financial and emotional obligations towards the family. That he failed to make any contribution towards the running of the home, leaving the Petitioner with the burden of meeting all the family's needs including expenditure on rent, school fees, food, car maintenance and clothing. The Respondent also declined to participate in the child's upbringing and indeed lost all interest in their child's emotional, social and educational welfare occasioning the child and the petitioner emotional and psychological hurt.
6. The Petitioner asserts that their two families tried to have reconciliatory meetings but the Respondent insisted that he wanted to handle his own marital issues without interference during

the separation. That the marital relationship had deteriorated forcing the Petitioner to move out of the matrimonial home on 18th October, 2008, and go back to her parents for two weeks.

7. The Petition is supported by the Petitioner's affidavit sworn on 9th April 2014 in which she reiterates the contents of her Petition. She therefore prays that the marriage celebrated between herself and the Respondent be dissolved.
8. The Petitioner states that several attempts to reach the Respondent for purpose of service of the Notice to appear and the pleadings were in vain. On 25th March, 2015 the Respondent was served through his known Advocates M/s Irungu Mwangi & Co. with the Hearing Notice dated 20th March 2015, for a Registrar's Certificate fixed for 15th April 2015.
9. On 3rd November 2014 the Respondent filed a reply to the Petition, in which he denied ever treating the Petitioner with cruelty. He stated that the Petitioner left the matrimonial home only one year into the marriage and whilst the Respondent was still in employment. That he was in a position to support the family despite the fact that the Petitioner declared that she was not in need of the Respondent's support either for herself or her daughter.
10. The Respondent further states that he sought to have a DNA test of the issue of the marriage through the Petitioner's Advocate, because he suspected that the Petitioner was involved in adulterous acts. That the Petitioner declined saying that she would exercise sole parental responsibility over the child to the Respondent's exclusion. That the Petitioner moved out of the matrimonial home out of her own free will in spite of the Respondent's efforts at reconciliation. That due to the Petitioner's act of desertion, the Respondent developed a Paranoid Schizophrenic disorder, which has caused him to lose his job and is in need of further medical attention.
11. On 30th April 2015, the Deputy Registrar certified that the matter was suitable to proceed for hearing as a defended cause for one day in Nairobi. On 22nd October 2015, the Petitioner adopted her petition in evidence. Both the Petitioner and the Respondent confirm that this Petition and cross-petition have not been presented or prosecuted in collusion with one another, nor have they connived or condoned the marital offences which each have complained of. They also certify that there have been no previous proceedings filed regarding the marriage.
12. Both the Petitioner and the Respondent confirm that the marriage between them has irretrievably broken down with no possibility of salvage. They both therefore, pray that the marriage be dissolved. The Respondent was served but did not appear in court.
13. This court has carefully considered the facts of this case and it is clear that the marriage between the Petitioner and Respondent has irretrievably broken down with no possibility of salvage. The Petitioner and Respondent are no longer living together and are agreed that attempts at reconciliation have borne no fruit. The court is of the view that the matrimonial offence of cruelty has been proved on a balance of probabilities and that there is no collusion between the Petitioner and Respondent in bringing this proceedings.
14. In view of the foregoing this court makes orders as hereunder:
 - a. That the marriage celebrated between the Petitioner and the Respondent at [particulars withheld], Nairobi on 20th April 2007, is hereby dissolved.
 - b. Decree Nisi dissolving the said marriage is hereby issued, to be made absolute thirty (30) days from the date of this judgment.
 - c. There shall be no orders as to costs.

SIGNED DATED and DELIVERED in open court this **29th** day of **October, 2015**.

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L. A. ACHODE

JUDGE

In the presence ofAdvocate for the Petitioner

In the presence ofAdvocate for the Respondent