

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT MALINDI

DIVORCE CAUSE NO.26 OF 2014

E.L.G.....PETITIONER

VRS

N.K.K.....RESPONDENT

JUDGMENT

The petition dated 2nd December 2014 is seeking dissolution of the marriage between the two parties herein. The respondent was served but filed no response. He appeared during the hearing of the case but opted not to adduce any evidence.

The Petitioner's evidence is that the two got married on 18th February 2013; They met at Coral Key Hotel in Malindi. She built the respondent a residential home in his village. One day she visited the respondent at Watamu and found him with a naked lady. They were in the process of preparing to have sex. On inquiring the respondent assaulted her. She made a report to the police but later opted to forgive him.

In her Petition, the petitioner states that she is 80 years old while the respondent is 25 years old. The two were not blessed with any children. The respondent informed the petitioner that the young lady was going to live with him as she was going to bare him children. It is the petitioner's contention that the respondent is adulterous.

From the pleadings herein, it is clear that there is no love between the two parties. The respondent was served but did not contest the petition. He appeared in court during the hearing but decided not to cross examine the petitioner or tender any evidence. It is clear to me that due to the age difference, the respondent will still pursue comfort from young ladies with the intention of getting children. The petitioner is not ready to stand that as they are lawfully married. The allegations of adultery have been established and the petitioner maintains that she is emotionally broken and distraught. It is not prudent to allow the relationship to continue. Outrightly, the respondent seems not to be interested in the marriage. There is no attempt to reconcile with the petitioner.

In the end, I do find that the particulars of adultery have been proved. The respondent was found with another woman and he would like that woman to bare him children. At the age of 80 years, it appears that the petitioner will not bare the respondent any children. I do find that the marriage has irretrievably broken down. There is no hope for reconciliation. The marriage is hereby dissolved. A decree nisi to issue forthwith. Each party to meet their own costs

Dated, signed and delivered at Malindi this 30th day of **November**, 2015.

SAID J. CHITEMBWE

JUDGE