

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

DIVORCE CAUSE NO. 81 OF 2012

BETWEEN

C R W M L.....PETITIONER

AND

A A L.....RESPONDENT

JUDGEMENT

1. The petitioner in this matter married the respondent on 6th September 2006 at a civil ceremony at the office of the Registrar of Marriages at Nairobi. A certificate of marriage No. [*particulars withheld*] was duly issued, copy of which is attached to the petition filed in court in this cause. The couple thereafter cohabited at Kileleshwa, Nairobi. They were blessed with one issue, J L [*minor*].
2. The petition herein was filed in court on 6th May 2012. It was preceded by Judicial Separation Cause No. 342 of 2007. In the divorce petition, the petitioner accuses the respondent of cruelty and adultery.
3. The petition and the notice to appear were served on the respondent, and he entered appearance, and filed an answer to the petition and a cross-petition. He denied the allegation levelled against him by the petitioner in her petition, and cross petitioned for divorce on the grounds of cruelty. He avers that the petitioner continuously treated him and his relatives with cruelty.
4. The matter was cleared for hearing by the Deputy Registrar on 4th October 2012, and was certified to proceed as a defended cause. I heard the matter on 25th April 2013. Both parties testified and gave vent to the allegations made in their respective pleadings.
5. The petitioner told the court that the respondent was a pathological liar, who lied about his background and education. She testified that he had also committed adultery at various times with various women. This of course is evidence to be taken with a pinch of salt as the women he was alleged to have committed adultery with were not named as respondents as is required by the Matrimonial Causes Act and Rules. She claimed that he slapped her at some stage of their marriage. She denied all the allegations made by the respondent with respect to her treatment of her mother in law and sister in law.
6. The respondent denied lying to the petitioner. He denied the allegations of adultery levelled against him by the petitioner. He also testified that he and the petitioner rarely agreed on anything, given that in most cases the petitioner would get unreasonable and start throwing things at him. She often used abusive language and was generally verbally abusive. He gave a detailed account of her cruelty to his relatives. He also testified as to how the petitioner wrote emails to his employer about their marriage leading to his dismissal from employment. He also explained that she left the matrimonial home and carted away everything from the matrimonial house. At the same time she emptied their joint account of all the money. She also took away all his documents with her when she left. He indicated that he was ready to provide for the child of the marriage. As he has other children, his offer was to pay Kshs. 10, 000.00 per month.

7. There is clearly no love lost between the parties. The marriage exists only on paper. It appears to me that the marriage between the parties has completely broken down. It would also appear to me that there has been no collusion between the petitioner and the respondent in bringing these proceedings. There is also no evidence that the petitioner condoned the desertion.
8. I will allow the petition dated 7th May 2012 and the cross-petition dated 13th July 2012, and dissolve the marriage celebrated between the petitioner and respondent on 6th September 2006. Each party shall bear their own costs.
9. Decree *nisi* shall issue forthwith, to be made absolute after thirty (30) days.

DATED, SIGNED and DELIVERED at NAIROBI this 31st DAY OF January, 2014.

W. MUSYOKA

JUDGE