

REPUBLIC OF KENYA

IN THE HIGH COURT AT KAKAMEGA

MATRIMONIAL CAUSE NO: 3 OF 2013

B B M.....PETITIONER

VERSUS

G N K.....RESPONDENT

JUDGEMENT

The petitioner filed this petition seeking to be granted divorce. The parties got married on 29th July 2002 under the marriage Act, chapter 150 Laws of Kenya. The respondent was duly served but opted not to respond to the petition.

The petitioner's testified before the court and her contention is that the marriage has been characterized with cruelty in the form of physical assault, abuse, molestation and intimidation. At one time, as per her evidence the petitioner was assaulted and she lost three of her lower teeth. According to the petitioner, the respondent has been using family property without due regard to family property without due regard to family needs. At one time the respondent took the petitioner's motor vehicle registration number [particulars withheld] and the dispute ended in court.

The other ground of divorce is that since 2009 the respondent deserted the matrimonial home thereby denying the petitioner her conjugal rights. Further the respondent has not been responsible towards maintaining the petitioner.

The evidence on record shows that the parties got married in 2002 and cohabited at [particulars withheld] in Machakos County as well as in [particulars withheld]. Since 2009 the parties have not lived together. The marriage was not blessed with any child. From the petitioner's evidence, I do find that the respondent has been treating the petitioner with cruelty. The petitioner has proved her case to the effect that the marriage has irretrievably broken down as a result of the respondent's behaviors. There is evidence that at one time parties litigated over a motor vehicle and this cannot be a sign of a good marriage.

I to find that the marriage between the two parties herein has broken down and is beyond reconciliation.

The marriage is hereby dissolved. A decree nisi to be issued for a period of six (6) months and thereafter the petitioner shall be at liberty to apply for a decree absolute. There shall be no order as to costs.

Dated, signed and delivered at Kakamega this 26th day of February 2014

S.J CHITEMBWE

JUDGE