

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MOMBASA

DIVORCE CAUSE NO. 51 OF 2013

L A J B.....PETITIONER

VERSUS

M M A.....RESPONDENT

JUDGMENT

The petitioner **L A J B** has filed this petition seeking the dissolution of her marriage to the respondent **M M A**. The respondent despite having been served with the petition failed to enter appearance and failed to file any reply to the petition. The matter therefore proceeded as an undefended cause.

The petitioner told the court that she and the respondent got married on 9th December, 2009 at the office of the Registrar in Mombasa. She has annexed a copy of the marriage certificate serial number [Particular withheld] as proof of this fact. After the marriage the couple resided in [Particulars withheld] estate. They bore no children together. The petitioner told the court that the lack of a child was a persistent sore point in their marriage. On 15th March, 2013 the respondent walked out of the matrimonial home never to return.

It is clear that the intention of the respondent was to abandon his wife and his marriage. He was probably aggrieved by her failure to bear a child. Yet this is not a matter of which she had control. The petitioner told the court that despite attempts made by their parents to reconcile them, no reconciliation was possible. This is clearly a marriage which was broken down. For as long as the petitioner is unable to bear children it appears the respondent is not willing to live with her. I find that this attitude amounts to cruelty which is ground to allow the petition. I therefore allow this petition for divorce. Decree nisi to issue to be made absolute within three (3) months of today's date.

No order on costs.

Dated and delivered in Mombasa this 31st day of March, 2014.

M. ODERO

JUDGE

In the presence of:

No appearance by either side