

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

DIVORCE CAUSE NO. 80 OF 2013

A W M.....PETITIONER

VERSUS

J M K.....RESPONDENT

J U D G M E N T

The Petitioner and the Respondent were on 4th June 1975 married under the **Marriage Act**. The marriage was celebrated at the Registrar's Office, Nairobi. After the celebration of the marriage, the Petitioner and the Respondent cohabited together as husband and wife in Southlands and South C estates within the city of Nairobi, Kenya. The marriage has been blessed with five (5) issues. All are now adults. According to the Petitioner, since the celebration of the marriage, the Respondent has treated her with cruelty and disrespect. Because of the Respondent's acts of cruelty, the marriage had irretrievably broken down. The Petitioner stated that she has been separated from the Respondent for a period over 13 years after the court granted her an order of judicial separation. In the premises therefore, the Petitioner pleaded with the court to grant her petition for divorce and dissolve the marriage. She also asked the court to equally divide the property that had been acquired during the subsistence of the marriage between herself and the Respondent. She further urged the court to award her costs of the suit.

The Respondent was served with the summons to enter appearance together with a copy of the petition for divorce. He did not enter appearance. Neither did he file any papers in opposition to the petition for divorce. The Deputy Registrar of this court issued a certificate certifying this cause as suitable to be heard as an undefended divorce cause. During the hearing of the petition, this court heard oral evidence adduced by the Petitioner. She essentially reiterated the contents of her petition for divorce. She told the court that all attempts at reconciliation had failed. This court has carefully considered the facts of this divorce cause. The issue for determination by this court is whether the Petitioner adduced sufficient evidence to enable this court grant her petition for divorce. This court has read the pleadings filed by the Petitioner. It has also considered the oral evidence adduced by the Petitioner. It was clear to the court that indeed the marriage between the Petitioner and the Respondent had irretrievably broken down with no possibility of salvage. The Petitioner and Respondent have been legally separated since the year 2000. The Respondent has cut ties with the Petitioner. In the premises therefore, this court will grant the petition for divorce.

The marriage between the Petitioner and the Respondent which was celebrated at the Registrar's Office, Nairobi on 4th June 1975 is hereby dissolved. Decree nisi dissolving the said marriage is hereby issued. The decree nisi shall be made absolute thirty (30) days from the date of this judgment. As regards the issue of division of matrimonial property, the Petitioner is at liberty to file an appropriate case before this court. There shall be no orders as to costs. It is so ordered.

DATED AT NAIROBI THIS 20TH DAY OF MARCH, 2014.

L. KIMARU

JUDGE