

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

DIVORCE CAUSE NO. 231 OF 2012

H G N.....PETITIONER

VERSUS

C W G.....RESPONDENT

JUDGEMENT

The Petitioner and the Respondent were married on 21st August 2001 at the Registrar's Office in Nairobi. The marriage was celebrated under the **Marriage Act**. After the celebration of the marriage, the Petitioner and the Respondent cohabited together as husband and wife in various estates within the city of Nairobi, Kenya. The marriage has been blessed with two (2) issues born respectively on 14th December 2002 and 5th May 2005. According to the Petitioner, since the celebration of the marriage, the Respondent has treated him with cruelty. He sets out the particulars of cruelty in his petition for divorce. In particular, he states that the Respondent had on several occasions been violent towards him. He complains that the Respondent physically assaulted him during the subsistence of the marriage. He alleged that the Respondent was ill tempered and exhibited violent tendencies towards the Petitioner. He accused the Respondent of denying him his conjugal rights, harassing him and being a difficult person who made his marital life miserable. The Respondent had also refused to have a good relationship with his parents. He complained that the Respondent was a person of ungovernable temper. Because of the above behaviour, which according to the Petitioner had persisted for a long time, the Petitioner had formed the view that his marriage to the Respondent had irretrievably broken down with no possibility of salvage. The Petitioner stated that he was taking care of the issues of the marriage. The Petitioner therefore urged the court to grant his petition for divorce.

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. He essentially reiterated the contents of his 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 in this petition. 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 2011. 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 21st August 2001 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 a case before this court for appropriate determination. There shall be no orders as to costs. It is so ordered.

DATED AT NAIROBI THIS 20TH DAY OF MARCH, 2014

L. KIMARU

JUDGE