

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

DIVORCE CAUSE NO. 102 OF 2012

P N M.....PETITIONER

VERSUS

ST Y K M.....RESPONDENT

J U D G M E N T

The Petitioner and the Respondent were married on 2nd December 2005. The marriage was solemnized at the Registrar's office in Nairobi under the **Marriage Act**. According to the Petitioner, she had cohabited with the Respondent for some time prior to formalizing the marriage. The marriage has been blessed with two (2) issues, twins born on 22nd June 2003. According to the Petitioner, since the celebration of the marriage, the Respondent has treated her with cruelty. She sets out the particulars of cruelty in her petition for divorce. In particular, she alleged that the Respondent had on several occasions been violent towards her. She complains that the Respondent physically and verbally assaulted her during the subsistence of the marriage. She accused the Respondent of willful neglect of her welfare and that of the children of the marriage. She complained that the Respondent had failed to contribute to the financial needs of the family. She further averred that the Respondent had embarrassed her in the presence of her children, friends and relatives. He had also caused pain, anguish and misery upon her that are of a psychological nature that taken in totality amounted to cruelty. She finally stated that the Respondent had deserted the matrimonial home for a period of five months. Because of the above behaviour the Petitioner left the matrimonial home on 24th June 2007. Since then, she had been separated from the Respondent and no conjugal relationship has taken place between her and the Respondent. The Petitioner was of the view that the marriage had irretrievably broken down with no possibility of salvage. She therefore asks the court to grant her petition for divorce.

The Respondent was served with the petition for divorce. He did not enter appearance. Neither did he file any papers in opposition to the said petition. The Deputy Registrar of this court issued a certificate certifying that this divorce cause be heard as undefended divorce cause. During the hearing of the cause, this court heard oral evidence of 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 said grounds of divorce. It was clear to this court that the marriage between the Petitioner and the Respondent has indeed irretrievably broken down. It was clear from the evidence adduced by the Petitioner that the matrimonial offence of cruelty had been established. The Respondent physically and verbally assaulted the Petitioner. He neglected his responsibility to provide for the Petitioner and the issues of the marriage. The evidence adduced by the Petitioner was uncontroverted. The Petitioner and the Respondent have been separated since June 2007. All efforts at reconciliation have failed. This court will therefore grant the petition for divorce.

In the premises therefore, the marriage between the Petitioner and the Respondent which was solemnized on 2nd December 2005 at the Registrar's office in Nairobi 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. There shall be no orders as to costs. It is so ordered.

DATED AT NAIROBI THIS 20th DAY OF March , 2014

L. KIMARU

JUDGE