

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

DIVORCE CAUSE NO. 187 OF 2012

BETWEEN

H E A.....PETITIONER

AND

J S O O.....RESPONDENT

JUDGEMENT

1. Marriage was celebrated between the parties herein on 25th February 2009 at the Registrar's Office, Nairobi. A certificate of marriage serial number [*particulars withheld*] was issued to them in accordance with the Marriage Act. The couple thereafter cohabited at Githurai and Kiserian in Nairobi, Kenya, as husband and wife. The couple was blessed with one (1) issue.
2. The petition in this matter was filed in court on 10th October 2012. The petitioner accuses the respondent of cruelty. She has particularised the alleged acts of cruelty in the petition. She accuses the respondent of using abusive and degrading language towards her, lack of love and affection towards her, neglect and denial of conjugal rights, being accused falsely of having extra-marital affairs, being falsely accused of visiting witch-doctors, having her movements monitored, being falsely accused of mistreating the respondent's relatives, disclosing the secrets of the family to outsiders, issuing threats to kill the petitioner and their daughter, and acts of adultery
3. The petition was served on the respondent and he filed appearance through counsel, but he did not file answer to the divorce petition. On 11th July 2013 the Deputy Registrar certified that the matter proceeds for hearing as an undefended cause. As there is no reply, the petitioner's allegations, as made in the petition, remain uncontroverted.
4. The petitioner testified on 10th October 2013 and gave vent to the allegations made in her petition. She testified that their cohabitation lasted till December 2010, when she was asked by the respondent to leave the home as he did not love her any more, and he wanted to bring in another wife. She testified that the respondent got married in 2011 and he now has a child with his new wife. No counter evidence was given by the respondent, and therefore the petitioner's story was not controverted.
5. It would appear to me that the marriage between the parties herein has irretrievably broken down. It would also appear to me that there has been no collusion between the petitioner and the respondent in the bringing of these proceedings. There is also no evidence that the petitioner has condoned the adultery.
6. Having taken into account the evidence before me I hereby make the following orders-
 - a. That the marriage celebrated between the petitioner and respondent on 25th February 2009 is hereby dissolved. Decree *nisi* shall issue forthwith and shall be made absolute after thirty (30) days;
 - b. That custody of the only issue of the marriage is awarded to the petitioner. All other orders touching on access to the child and his maintenance by the respondent shall be dealt with by the Children's Court;

c. There will be no orders as to costs.

DATED, SIGNED and DELIVERED at NAIROBI this 25th DAY OF April, 2014.

W. MUSYOKA

JUDGE

In the presence of advocate for the petitioner.