



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI

DIVORCE CAUSE NO. 15 OF 2013

BETWEEN

M M M.....PETITIONER

AND

A K M.....1ST RESPONDENT

P M G.....2ND RESPONDENT

JUDGEMENT

1. Marriage was celebrated between the parties herein on 23rd November 2005 at the Office of the Registrar of Marriages, Sheria House, Nairobi. The marriage certificate issued that is to say serial number [particulars withheld], is attached to the petition. The couple thereafter cohabited at Kayole in Nairobi, Kenya, as husband and wife. They were couple was blessed with two issues – P M M and M M M, born in 2008 and 2010, respectively.
2. The petition in this matter was filed in court on 24th January 2013. The petitioner accuses the 1st respondent of committing adultery with the 2nd respondent. She is also accused of cruelty, particulars being denial of conjugal rights, rudeness and carting away all the household goods from the matrimonial home.
3. The petition was served on the respondents on 25th January 2013, there is an affidavit of service on record sworn by Samuel Ng'ang'a, a process server, on 13th June 2013. The respondents did not enter appearance nor file an answer to the petition. On 27th June 2013 the Deputy Registrar certified that the matter proceeds for hearing as an undefended cause. As there is no reply to the petition, the petitioner's allegations, as made in the petition, remain uncontroverted.
4. The petitioner testified on 3rd October 2013 and gave vent to the allegations made in his petition. 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 and cruelty.
6. The orders that I am disposed to make are as follows:-

- a. That I hereby dissolve the marriage celebrated between the petitioner and respondent on 23rd November 2006;
- b. That I grant joint custody of the two issues of the marriage to the parties, but the respondent shall have possession of the children who are of tender years.
- c. That all issues and matters touching on the custody and maintenance of the two children of the marriage shall be placed before the Children's Court.
- d. Decree *nisi* shall issue forthwith, and may be made absolute after thirty (30) days.
- e. 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 ofadvocate for the petitioner.

In the presence ofadvocate for the respondent.