



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI

DIVORCE CAUSE NO. 94 OF 2013

BETWEEN

A A K.....PETITIONER

AND

D K R.....RESPONDENT

JUDGEMENT

1. Marriage was celebrated between the parties herein on 26th October 2001 at the District Commissioner's office in Uasin Gishu County, under the Marriage Act, Cap. 150, Laws of Kenya. The marriage certificate issued serial number *[particulars withheld]* is attached to the petition. The couple had prior to that been living together as husband and wife since November 1996.
2. The couple thereafter established a matrimonial home at Eldoret, Kenya, as husband and wife. The couple was blessed with two children – G C, born on 5th May 1998, and L K, born on 24th May 2004.
3. The petition in this matter was filed in court on 10th March 2013. The petitioner accuses the respondent of cruelty, adultery and desertion. The particulars of cruelty are that the respondent is verbally and physically abusive towards the petitioner and her property, falsely accuses the petitioner of neglecting and not taking care of her family, falsely accuses her of being a witch, threatening to kill her and treating the with contempt. The petitioner complains of having been infected by the respondent with sexually transmitted diseases in 2001, 2007 and 2010, and of having an adulterous relationship with a woman called M. The respondent is further accused of preferring to live away from the petitioner, by constantly forcing her to live upcountry and therefore away from him.
4. The petition was served on the respondent on 3rd June 2013, as evident from the affidavit of service sworn on 22nd November 2013 by Benson Onyango Nganyi. He did not enter appearance nor file an answer to the petition nor a cross-petition. On 25th November 2013 the matter was cleared by the registrar to proceed for hearing as an undefended cause.
5. As there is no reply to the petition, the petitioner's allegations, as made in the petition, remain uncontroverted.
6. The petitioner testified on 20th March 2014 and gave vent to the allegations made in her petition. No counter evidence was given by the respondent, and therefore the petitioner's story was not controverted.

7. 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 cruelty.
8. The orders that I am disposed to make are as follows:-
 - a. I hereby dissolve the marriage celebrated between the petitioner and respondent on 26th October 2001;
 - b. Decree *nisi* shall issue forthwith, and may be made absolute after thirty (30) days;
 - c. All issues touching on the custody and maintenance of the children of the dissolved marriage shall be addressed to the Children's Court; and
 - d. There will be no orders as to costs.

SIGNED DATED and DELIVERED in open court this 30th day of May 2014.

W. MUSYOKA

JUDGE