

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI
DIVORCE CAUSE NO. 95 OF 2011

BETWEEN

K P.....PETITIONER

AND

A J.....RESPONDENT

JUDGEMENT

1. Marriage was celebrated between the parties herein on 28th July 2009 at the office of the Registrar of Marriages, Nairobi, under the Marriage Act, Cap. 150, Laws of Kenya. The marriage certificate issued serial number **[particulars withheld]** is attached to the petition. The couple thereafter lived at various places Nairobi in as husband and wife. Some of the places where they cohabited included Spring Valley, Brookside, **[particulars withheld]** Apartments and Westlands. The couple was not blessed with children.

2. The petition in this matter was filed in court on 2nd June 2011. There was leave of court granted 19th May 2011 for the bringing of the divorce proceedings notwithstanding that the mandatory three years had not expired.

3. The petitioner accuses the respondent of cruelty. The particulars of cruelty are that the respondent deserts the matrimonial home on very many occasions, having no interest in the marriage, driving a wedge between the petitioner and the respondent's mother, being and distant towards the petitioner, failing to be loving and caring toward the petitioner, among others..

4. The petition was served on the respondent, who entered appearance and filed an answer to the petition and a cross-petition, through counsel. The answer to petition and the cross-petition were withdrawn on 23rd January 2013 vide a notice of withdrawal dated 28th May 2013.

5. The registrar had on 27th October 2011 cleared the matter to proceed for hearing as a defended cause, but following the withdrawal of the answer and cross-petition the matter proceeded as undefended. The matter came for hearing on 3rd April 2014. The petitioner testified and gave vent to the allegations made in her pleadings. Since there was no answer to her petition or a cross-petition, the allegations made in her petition were unchallenged and so was her oral evidence.

6. From the material before me, by way of pleadings and the oral evidence recorded at the trial, it is clear 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 proved in this case.

7. The orders that I am disposed to make are as follows:-

a. I hereby dissolve the marriage celebrated between the petitioner and respondent on 23rd November 1980;

b. Decree *nisi* shall issue forthwith, and may be made absolute after thirty (30) days;

c. There will be no orders as to costs.

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

W. MUSYOKA

JUDGE

In the presence of Mr. Mungai for Mrs. Mbugua advocate for the petitioner.