

IN THE HIGH COURT OF KENYA AT NAIROBI

DIVORCE CAUSE NO. 236 OF 2013

A O.....PETITIONER

VERSUS

M ZRESPONDENT

J U D G M E N T

The Petitioner and the Respondent were married on 11th March 2009 under the **Marriage Act**. The marriage was celebrated at Hotel Boulevard in Nairobi. After the celebration of the said marriage, the Petitioner and the Respondent cohabited together as husband in Nairobi and in Thailand. The marriage has not been blessed with any issues. The Petitioner and the Respondent each have two children from previous relationships. According to the Petitioner, since the celebration of the said marriage, the Respondent had treated her with cruelty. In the particulars of cruelty, the Petitioner alleged, inter alia, that she had suffered abuse and mistreatment in the hands of the Respondent. She alleged that the Respondent isolated her from friends and family, demeaned her, failed to involve her in the running of the affairs of the family and subjected her to mental anguish by forcing her to live on limited resources. She complained that the Respondent had falsely accused her of being unfaithful. She also accused the Respondent of willful neglect of his responsibilities as a husband. In particular she alleged that the Respondent had neglected her physical, emotional and medical needs. Because of the Respondent's behaviour, the Petitioner left the matrimonial home on 8th September 2012. For these reasons, the Petitioner is of the view that her marriage to the Respondent had irretrievably broken down with no possibility of salvage. The Petitioner urged the court to grant her petition for divorce, compel the Respondent to pay maintenance to her and finally award her costs of the suit.

The Respondent was served with the summons to enter appearance together with a copy of the petition for divorce. He entered appearance. However, he did not file any papers in opposition to the petition for divorce. The deputy Registrar of this court issued a certificate certifying this cause as suitable to be heard as an undefended divorce cause. During the hearing of the petition, this court heard oral evidence adduced by the Petitioner. She essentially reiterated the contents of her petition for divorce. This court has carefully considered the facts of this divorce cause. It was clear from the evidence adduced by the Petitioner that the marriage between the Petitioner and the Respondent has irretrievably broken down. It is apparent to the court that the Petitioner feels mistreated. The incidents of cruelty as narrated by the Petitioner, taken in totality, established to the required standard of proof on a balance of probability the matrimonial offence of cruelty. She has been separated from the Respondent for nearly two (2) years. This court will therefore grant the petition for divorce.

In the premises therefore, the marriage celebrated between the Petitioner and the Respondent on 11th March 2009 at Hotel Boulevard in Nairobi is hereby dissolved. Decree nisi dissolving the said marriage is hereby issued. The decree nisi shall be made absolute thirty (30) from the date of this judgment. The parties entered into an agreement settling the issue of maintenance and future support. That agreement is dated 8th November 2013 and has been filed in court. There shall be no orders as to costs.

DATED AT NAIROBI THIS 31ST DAY OF JULY, 2014

L. KIMARU

JUDGE