

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

DIVORCE CAUSE NO. 150 OF 2013

BETWEEN

Y H B.....PETITIONER

AND

S A K..... RESPONDENT

JUDGEMENT

1. Marriage was celebrated between the parties herein on 19th October 2008 at a ceremony at the Shree Mahajan Temple, Nairobi. Later they underwent another ceremony at the office of Registrar of Marriages at Sheria House, Nairobi, under the Marriage Act, Cap. 150, Laws of Kenya, on 26th January 2010. The marriage certificate issued serial number *[particulars withheld]* is attached to the petition. The couple thereafter cohabited as husband and wife at their matrimonial home in Nairobi. The couple was not blessed with issue.
2. The petition in this matter was filed in court on 31st July 2013. The petitioner accuses the respondent of cruelty and desertion. The particulars of cruelty being that the respondent and her relatives had made unreasonable demands on the petitioner, have been confrontational towards the petitioner, have treated the respondent with with contempt, among others. The particulars of desertion are that the respondent had deserted the matrimonial home since July 2012..
3. The petition was served on the respondent and she entered appearance and filed an answer to the petition and a cross-petition. She denies the allegations of cruelty and desertion, and in turn accuses the petitioner of cruelty, desertion and constructive desertion. She accuses the petitioner of cruel disposition, excessive arrogance and ungovernable temper, being an alcoholic, humiliating her at her work place in the presence of her superior and her colleagues, denying conjugal rights, among others. She accuses him pushing her out of the matrimonial home by his conduct. She also alleges that he was guilty of adultery and particularises various acts of adultery, but she has not joined any person as a co-respondent.
4. On 6th March 2014, the parties entered into a consent for the withdrawal of the petition so that the cross-petition proceeded undefended, the matter was thereafter cleared by the registrar to proceed for hearing as an undefended cause. Following the withdrawal of the petition, the cross-petitioner's allegations, as made in the cross-petition, remain uncontroverted.
5. The cross-petitioner testified on 8th May 2014 and gave vent to the allegations made in her petition. No counter evidence was given by the respondent to the cross-petition, and therefore the cross-petitioner's story was not controverted.
6. 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 proved.
7. 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 19th October 2008;
- b. Decree *nisi* shall issue forthwith, and may be made absolute after thirty (30) days.
- c. There will be no orders as to costs.

DATED, SIGNED and DELIVERED at NAIROBI this 31st DAY OF July, 2014.

W. MUSYOKA

JUDGE