



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAKURU

DIVORCE CAUSE NO. 8 OF 2012

WWM.....PETITIONER

VERSUS

RMM.....RESPONDENT

JUDGMENT

Before me is the petition filed by WWM against RMM (respondent) in which she seeks dissolution of the marriage, maintenance for herself and costs of the petition. Although the respondent was aware of this petition and even attended court on the hearing date, he did not file any reply. He informed the court that he did not oppose the petition. The parties appeared in person.

The grounds upon which the petition is brought are that the respondent has been cruel to the petitioner in that he has been a drunkard, irresponsible, not providing for the family, using vulgar language when drunk, that he has ungovernable temper and violent.

PW1 testified that they started living together as husband and wife in 1997. In 2008, they formalized their marriage before the Registrar of Marriages as evidenced by the marriage certificate (PEx.1). They had two issues; KN born in 1995 before they married but was adopted by the respondent and J, born in 2005. She produced the birth certificates (PEx.2 & 3). She told the court that they lived as husband and wife till May 2010 when they separated when the respondent used to drink a lot, came home drunk disturbing neighbours and waking her up in the night and she could not sleep till the wee hours of the morning. She said that the situation became worse when the respondent failed to get a visa to travel to the United States; that he was ill tempered, used to expose himself to the children in the house going about in boxers and when the daughter reached 13 years, she decided to protect her and that is why she decided to move out. PW1 also said the respondent would sometimes be violent when drunk and on one occasion, he broke the house windows, she called police but the respondent escaped.

Despite the fact that PW1 reported the matter to Children's Department seeking for maintenance, the respondent was not able to pay any because he has no job.

The petitioner and respondent have been living separately since 2010, about 4 years ago. The respondent was in court but he did not oppose the petition. In my view, the marriage has irretrievably broken down.

In her evidence the petitioner has demonstrated that the respondent was a drunkard, irresponsible, violent which evidence was not challenged.

As observed above the respondent was present in court but did not oppose the petition and that is why

there is no hope for the marriage being retrieved. PW1 is taking care of the issues of the marriage and does not wish to claim any maintenance either for herself or children because the respondent is unemployed.

For all the above reasons, I find that the petitioner is entitled to prayer (a) of the petition and I hereby order the marriage dissolved and a decree nisi is hereby issued. Prayers (b) and (c) for maintenance and costs were abandoned. It is so ordered.

DATED and DELIVERED this 25th day of July, 2014

R.P.V. WENDOH

JUDGE

PRESENT:

Mr. Njuguna for the petitioner

Petitioner present

N/A for the respondent

Kennedy – Court Assistant