



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI

DIVORCE CAUSE NO. 73 OF 2013

BETWEEN

L S E.....PETITIONER

AND

M A C.....RESPONDENT

JUDGEMENT

1. Marriage was celebrated between the parties herein on 2nd January 2011 by the Registrar of Marriage at the Wonder Joy Gardens, Kiambu. A certificate of marriage serial number *[particulars withheld]* was issued to them in accordance with the Marriage Act. The couple thereafter cohabited in the United States of America and Nairobi, Kenya, as husband and wife. The couple was blessed with one issue – S M C.
2. The petition in this matter was filed in court on 8th April 2013. The petition was lodged before the three years prescribed had expired, but I do note that leave had been granted in Nairobi HCDC No. 27B of 2012 on 18th March 2013.
3. The petitioner accuses the respondent of cruelty and adultery. The particulars being that the respondent has had affectionate and intimate associations and communication with a string of women, has neglected the petitioner and their child, has exposed the respondent to sexually transmitted diseases, among others.
4. On 18th July 2013 the Deputy Registrar certified that the matter proceeds for hearing as an undefended cause. There is no reply to the petition and therefore the petitioner's allegations, as made in the petition, remain uncontroverted.
5. The petitioner testified on 29th May 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.
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 alleged in the petition and proved at the hearing.
7. On the issue of maintenance, I note from the record that the petitioner did not place any material before me upon which I could determine the maintenance that ought to be paid by the respondent to the respondent.
8. I am disposed to make the following orders: -

- a. That I hereby dissolve the marriage celebrated between the petitioner and respondent on 2nd January 2011;
- b. That custody of the minor issue of the marriage is hereby granted to petitioner;
- c. That orders on the maintenance of the minor child shall be sought at the Children's Court;
- d. That decree *nisi* shall issue forthwith and shall be made absolute after thirty (30) days; and
- e. That there will be no orders as to costs.

DATED, SIGNED and DELIVERED at NAIROBI this 14th DAY OF August, 2014.

W. MUSYOKA

JUDGE

In the presence of advocate for the applicants.