

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

DIVORCE CAUSE NO. 198 OF 2011

BETWEEN

M N M.....PETITIONER

AND

P C N.....RESPONDENT

JUDGEMENT

1. Marriage was celebrated between the parties herein on 9th September 2006 at the Holy Family Basilica, Nairobi, under the Marriage Act. The marriage certificate issued serial number ***[particulars withheld]*** is attached to the petition. The couple thereafter cohabited in Nairobi, Kenya, as husband and wife, but at the time of the filing of the petition they resided and worked separately at Nairobi and Mombasa, respectively. The couple was not blessed with any issue.
2. The petition in this matter was filed in court on 29th December 2011. The petitioner accuses the respondent of cruelty, particulars being that the respondent has threatened to leave the matrimonial home on several occasions, moved out of the matrimonial bed and denied the petitioner her conjugal rights, removed the petitioner from the matrimonial home and handed her over to her mother, and that he has not resumed cohabitation thereafter despite efforts by the petitioner to reconcile the differences between them. She avers that the marriage has irretrievably broken down. She further avers that the cruelty visited upon her has caused her physical, psychological and emotional trauma.
3. The petition was served on the respondent who he did file an answer to the petition without a cross-petition. He denies the allegations of cruelty made against him. He avers that he did provide for the petitioner contrary to her allegations. He makes his own allegations of cruelty against the petitioner and prays in the end that the marriage be dissolved, which is curious given that he did not cross-petition for dissolution of the marriage.
4. The registrar's certificate was issued on 17th January 2013, clearing the way for the hearing of the matter
5. The petitioner testified on 22nd May 2014 and gave vent to the allegations made in her petition, and was cross-examined by counsel for the respondent. No counter evidence was given by the respondent, even though he had filed an answer to the petition, and therefore the petitioner's testimony was not controverted.
6. It would appear to me that the marriage between the parties herein has irretrievably broken down. It would 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 pleaded in the petition and proved in court through oral testimony.
7. The orders that I am disposed to make in the circumstances are as follows:-
 - a. That I hereby dissolve the marriage celebrated between the petitioner and respondent on 9th September 2006;

- b. That decree *nisi* shall issue forthwith, and may be made absolute after thirty (30) days; and
- c. That there will be no orders as to costs.

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

W. MUSYOKA

JUDGE