

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI
DIVORCE CAUSE NO. 258 OF 2013

BETWEEN

R W W.....PETITIONER

AND

D O N.....RESPONDENT

JUDGEMENT

1. Marriage was celebrated between the parties herein on 23rd August 2005 at the office of the Registrar of Marriages, Nairobi. A certificate of marriage serial number *[particulars withheld]* was issued to them in accordance with the Marriage Act. The couple thereafter cohabited at Uhuru Estate, Nairobi, Kenya, as husband and wife. The couple was blessed with one issue – N M.

2. The petition in this matter was filed in court on 9th December 2013. The petitioner accuses the respondent of cruelty, desertion and adultery. The particulars of cruelty being that the respondent has displayed an uncaring attitude towards the petitioner, has directed cruel and unkind insults towards the petitioner, has physically assaulted the petitioner, has neglected the petitioner and their child, has abused alcohol, among others. She also accuses him of having a sexual relationship with a named woman, who has however not been made a co-respondent, and is said to be currently living with another woman, now heavy with his child. In 2006 the respondent left the matrimonial home never to come back.

3. On 2nd April 2014 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.

4. 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.

5. 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 and desertion proved in this case.

6. On the issue of maintenance, the petitioner did not place any material before me upon which I could determine the maintenance that ought to be paid by the respondent. I am disposed to make the following orders: -

- a. That I hereby dissolve the marriage celebrated between the petitioner and respondent on 23rd August 2005;
- b. That decree *nisi* shall issue forthwith and shall 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

In the presence of advocate for the applicants.