

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

DIVORCE CAUSE NO. 30 OF 2014

J B C.....PETITIONER

VERSUS

R C M.....RESPONDENT

J U D G M E N T

The Petitioner and the Respondent were in 1988 married at the District Commissioner's Office in Garissa. The marriage was celebrated under the **Marriage Act**. After the celebration of the said marriage, the Petitioner and the Respondent cohabited together as husband and wife at Garissa Police line, Buruburu Police line and at Harambee Police Post. The marriage has been blessed with five (5) children born between 1988 and 2008. In her petition for divorce, the Petitioner accused the Respondent of committing adulterous affairs with various women during the period of their marriage. The Petitioner further accused the Respondent of treating her with cruelty. In the particulars of cruelty, the Petitioner inter alia, accused the Respondent of withholding love and affection, showing her utter contempt and lack of commitment towards his matrimonial commitments, being verbally abusive and physically abusing her during the subsistence of their marriage. He had also humiliated and embarrassed her in the presence of their children and relatives. She averred that the Respondent had been guilty of willful neglect of her welfare and that of the children of the marriage. She further deponed that the Respondent had denied her conjugal rights. She finally stated that the Respondent was guilty of desertion. According to the Petitioner, the Respondent had on several occasions moved out of the matrimonial home without her consent or knowledge. In the premises therefore, the Petitioner urged the court to grant her petition for divorce and dissolve the marriage.

The Respondent was served with a copy of the petition for divorce together with a notice requiring him to enter appearance. He did not enter appearance. Neither did he file any papers in answer to the petition for divorce. The Deputy Registrar of this court issued a certificate certifying this cause as a suitable one to be disposed of by this court as an undefended divorce cause. At the hearing of the petition, this court heard oral evidence adduced by the Petitioner. She reiterated the contents of the Petition. She told the court that the Respondent has purported to be married to two other women with whom they have sired children. The Petitioner stated that all efforts to reconcile them had failed. The court has considered the evidence adduced by the Petitioner in this cause. It was clear to the court that the marriage between the Petitioner and the Respondent has indeed irretrievably broken down with no possibility of salvage. The evidence adduced by the Petitioner was uncontroverted. The Petitioner established to the required standard of proof on a balance of probabilities the matrimonial offences of adultery, cruelty and desertion. In the premises therefore, this court will grant her petition for divorce.

The marriage celebrated at the District Commissioner's Office in Garissa in 1988 between the Petitioner and the Respondent is hereby dissolved. Decree nisi dissolving the said marriage is hereby issued. The decree nisi shall be made absolute thirty (30) from the date of this judgment. There shall be no orders as to costs.

DATED AT NAIROBI THIS 26TH DAY OF SEPTEMBER, 2014

L. KIMARU

JUDGE