



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
DIVORCE CAUSE NO. 20 OF 2012

BETWEEN

F K N.....PETITIONER

AND

R T N.....RESPONDENT

JUDGEMENT

1. On 26th July 1995 the Petitioner, then a spinster known as F K was lawfully married to the Respondent R T N then a bachelor, and a certificate Serial No. *[particulars withheld]* issued to them in accordance with the **Marriage Act** at the office of the Registrar of Marriages in Nairobi. After the celebration of their marriage they cohabited as husband and wife in Nairobi and Kiambu respectively. They were blessed with four issues of the marriage namely:
 - i. G K born on 30th November 1992
 - ii. A M born on 30th October 1994
 - iii. A K born on 9th August 2003
 - iv. G P M born on 10th November 2006

Both Petitioner and Respondent are domiciled in Kenya where the Petitioner is a teacher and the Respondent is a businessman.

2. The Petition filed on 9th February 2012 is premised on grounds of cruelty. The acts of cruelty are said to have been visited upon the Petitioner by the Respondent. In the particulars of cruelty set out in the Petition the Petitioner averred that the Respondent had on several occasions threatened to inflict physical harm upon her. That during the subsistence of the marriage he used very abusive language in front of other people by calling her a prostitute and a woman of loose morals, and also assaulted the Petitioner in the presence of third parties causing her a lot of mental and physical injuries.
3. The Petitioner further stated that the Respondent on several occasions totally refused to provide for the children and had secretly sold off the matrimonial property without the knowledge of the Petitioner.
4. The Respondent filed an answer to the petition together with a cross-petition. He too set out particulars of neglect and cruelty in which he cited the acts of neglect visited upon him by the

Petitioner. In particular the Respondent stated that the Petitioner deserted the matrimonial home from October 2008 abandoning the Respondent in his hour of need when he was hospitalized at Kenyatta National Hospital. That the Petitioner instructed security guards at **[particulars withheld]** Girls Centre to bar the Respondent from accessing their matrimonial home that was situated within the school compound.

5. The Respondent asserted that since the celebration of the marriage, the Petitioner had treated the him with contempt, cruelty and negligence resulting in mental anguish, pain, misery, loss of health and wellbeing.
6. On 23rd July 2012 the Deputy Registrar of this Division issued a certificate that this matter was suitable to proceed as a defended cause. The Petitioner testified on 9th October 2014 and basically reiterated the grounds set out in the petition. She did not seek for maintenance from the Respondent. The Respondent did not appear in court to testify.
7. Both the Petitioner and the Respondent asserted that neither the petition nor the cross-petition respectively, had been filed in collusion nor did they condone or connive in the acts of cruelty, and neglect set out in their respective pleadings.
8. By reasons of the matrimonial offences set out in their respective pleadings each of the parties was of the opinion that the marriage had broken down irretrievably and was beyond salvage. The Petitioner prayed that she be granted the custody of the issues of the marriage while the Respondent prayed that the upkeep of the children be shared between them. They prayed for the dissolution of the marriage.
9. From the foregoing there is no doubt in my mind that the marriage between the Petitioner and the Respondent has irretrievably broken down and has no hope of being salvaged. In the premise I make the following orders:
 - a. That the marriage celebrated between the Petitioner and Respondent at the Registrar's office in Nairobi on 26th July 1995 be and is hereby dissolved.
 - b. That matters concerning the custody and maintenance of the issues of the marriage shall be determined by the Children's Court.
 - c. That Decree nisi dissolving the said marriage is hereby issued to be made absolute thirty (30) days from the date of this judgment.
 - d. There shall be no orders as to costs.

SIGNED DATED and DELIVERED in open court this 27th day of November 2014.

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L. A. ACHODE

JUDGE