



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
FAMILY DIVISION
DIVORCE CAUSE NO. 165 OF 2010

BETWEEN

J G M.....PETITIONER

AND

S M M.....RESPONDENT

JUDGEMENT

1. On 10th December 1996 the Petitioner, then a spinster known as J G M was lawfully married to the Respondent S M M then a bachelor, under the **Marriage and Divorce Act (Cap 150 laws of Kenya)** at the office of the Registrar of Marriages in Nairobi. After the celebration of their marriage they cohabited as husband and wife in Pangani Nairobi and were blessed with four issues of the marriage namely:

- i. A W M
- ii. N K M
- iii. G W M
- iv. O M M

Both Petitioner and Respondent are domiciled in Kenya and are engaged in business to earn a living.

2. The Petition filed on 20th December 2010 is premised on grounds of cruelty as particularised therein. The acts of cruelty are said to have been visited upon the Petitioner and the issues of the marriage by the Respondent. The Petitioner averred that the Respondent had on several occasions treated her with contempt, abused her physically causing her bodily harm and threatened to kill her by strangulation. The Petitioner also stated that the Respondent had a habit of disappearing from home without explanation to her and taking household items with him. That in fact he had taken up cohabitation with another woman in Mweiga Nyeri, on whom he was expending the family resources. That, reconciliatory meetings involving other family and church members had come to nought.

3. On 26th May 2011 the Deputy Registrar of this Division issued a certificate that this matter was

suitable to proceed as a defended cause. The Petitioner testified on 23rd October 2010 and basically reiterated the grounds set out in the petition. She did not seek for maintenance from the Respondent.

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 cruelty and neglect visited upon him by the Petitioner. In particular the Respondent stated that the Petitioner denied him food, conjugal rights and general care and that she insulted him and treated him with utmost contempt. He described her as “*a woman of ungovernable temperament*” who wilfully, capriciously and without justification subjected the Respondent to physical abuse culminating in her chasing him away from the matrimonial home in April 2008. Although served with a hearing notice he did not appear in court to testify on 23rd October 2014.

5. Both the Petitioner and the Respondent asserted that neither the petition nor the cross-petition respectively, had been filed in collusion with the other party nor did they condone or connive in the acts of cruelty, adultery and neglect set out in their respective pleadings.

6. 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. They prayed for the dissolution of the marriage.

7. From the foregoing it is my considered view 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 10th December 1996 be and is hereby dissolved.
- b) That Decree nisi dissolving the said marriage is hereby issued to be made absolute thirty (30) days from the date of this judgment.
- c) 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