



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**

**DIVORCE CAUSE NO. 7 OF 2014**

**BETWEEN**

M W .....PETITIONER

**AND**

J N .....RESPONDENT

**JUDGEMENT**

1. The Petitioner and the Respondent herein started staying together as a husband and wife in April 1994 having been married under the Kikuyu customary law. On 7<sup>th</sup> December 1996 they solemnized their vows in St. Mulumba Catholic Church in Thika, a certificate of marriage serial Number ***[particulars withheld]*** was issued to them in accordance with the **Marriage Act (Cap 150 Laws of Kenya)**. The couple thereafter cohabited at Kakamega town, Makongeni Estate Thika, Kabati in Thika, Githunguri in Kiambu, Githurai in Nairobi and Ruiru town in Kiambu as husband and wife respectively. The couple was blessed with three issues namely: B K, born on 10<sup>th</sup> May 1995, A N, born on 17<sup>th</sup> January 2001 and A W, born on 18<sup>th</sup> September 2002.

2. In the Petition filed in this matter on 16<sup>th</sup> January 2014, the Petitioner accuses the Respondent of cruelty and adultery as particularised therein. The acts of cruelty are said to have been meted upon the Petitioner by the Respondent. The Petitioner averred that the Respondent had on several occasions treated her with contempt, abused her, exposed her to emotional torture, and physically assaulted her. That the Respondent had neglected parental responsibilities towards the children and he would come home drunk most of the time.

3. On the ground of adultery the Petitioner stated that the Respondent had a habit of disappearing from home for days without communication to her and whenever he returned serious disagreements would ensue culminating in his insulting and roughing up the Petitioner. The Petitioner further stated that she once caught the Respondent in the act of having sex with her house girl.

4. That they have been living separately since the month of May 2012 when the Petitioner left their rented matrimonial home at Coffee Research Foundation, and has been living alone with the her children ever since. She therefore asked the court to find that the marriage between the Petitioner and the Respondent had broken down irretrievably.

5. The Petitioner prays that the marriage be dissolved and the Respondent be ordered to pay the costs of this suit.

6. The Respondent had been served via affidavit of service dated 3<sup>rd</sup> July 2014, but did not answer to the Divorce Petition. On 18<sup>th</sup> September 2014 the Deputy Registrar certified that the matter was suitable to proceed for hearing as an undefended cause for half day in Nairobi.

7. From the foregoing it is evident that the marriage celebrated between the parties herein on 7<sup>th</sup> December 1996 has irretrievably broken down and cannot be salvaged. I am also of the view that there is nothing to be gained by issuing a decree Nisi for a period of time before it becomes absolute in the circumstances of this case.

8. I therefore make orders as follows:

a) That the marriage celebrated between the Petitioner and Respondent at St. Mulumba Catholic church in Thika on 7<sup>th</sup> December 1996, is hereby dissolved.

b) That Decree nisi dissolving the said marriage is hereby issued to be made absolute within 30 days of the judgement.

c) There shall be no orders as to costs.

**SIGNED DATED** and **DELIVERED** in open court this **27<sup>th</sup> day** of **November 2014**.

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**L. A. ACHODE**

**JUDGE**