

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

DIVORCE CAUSE NO. 54 OF 2013

BETWEEN

R N M IPETITIONER

AND

A H IRESPONDENT

JUDGEMENT

1. The Petitioner then a spinster of Kenyan extraction and the Respondent then a bachelor of Niger citizenry, were married on 9th August 2008 at the Registrar's Office in Nairobi. 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 Buru Buru Estate Phase 3 in Nairobi and later relocated to Jan Ligthart Straat, *[particulars withheld]*, Voorburg, Netherlands. Both Petitioner and Respondent are domiciled in Netherlands where the Petitioner works as a lawyer while the Respondent works as an administrator in his own company.
2. The Petition filed on 2nd March 2013 is premised on grounds of cruelty and adultery as particularised therein. The acts of cruelty are said to have been visited 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 threatened physical violence. That the Respondent had restricted the enjoyment of their conjugal rights and demanded money from the Petitioner, in exchange for the right to procreate.
3. On the ground of adultery the Petitioner stated that the Respondent had numerous adulterous affairs in the course of their marriage and would extort money from the Petitioner to finance them. That the Petitioner learnt of them through text messages and e-mails referring to such affairs and that he also flirted with women openly in the presence of the Petitioner. The Petitioner stated further that the Respondent had a habit of disappearing from home for months on end without communication to her and when he returned he would threatened to beat her up if she sought to know where he had been. She explained that she always took him back in a bid to salvage the marriage.
4. That they have been living separately since the month of October 2012 when the Respondent, who is currently cohabiting with another woman deserted their matrimonial home. The Petitioner asserts that the Respondent had created conditions in the marriage which the Petitioner cannot be reasonably expected to bear. 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. She also states that there is no matrimonial property to be divided. She confirms that this Petition has not been presented or prosecuted in collision with the Respondent, nor has she connived or condoned the cruel or adulterous acts complained of. She also certified that there have been no previous proceedings filed regarding the marriage.
6. On 19th September 2013 the Deputy Registrar certified that the matter was suitable to proceed for hearing as an undefended cause for one day in Nairobi. The Respondent had been served via

registered post and had entered appearance on 11th July 2013 but did not file an answer to the Petition or a cross-Petition. The Petitioner testified on 30th October 2014 and reiterated what she had set out in the Petition. In addition, she stated that as at the time of testifying she had no idea where the Respondent was living. She prayed that a decree absolute do issue forthwith to put an end to her suffering. The Respondent did not appear to testify.

7. From the foregoing it is evident that the marriage celebrated between the parties herein on 9th August 2008 has irretrievably broken down and cannot be salvaged. Since this matter was filed in year 2013 when the old Act was still in place I will proceed to order that a decree nisi issues for a period of time before it is made absolute.

8. I therefore make orders as follows:

- a. That the marriage celebrated between the Petitioner and Respondent at the Registrar's office in Nairobi on 9th August 2008, 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 **20th day of November 2014.**

.....

L. A. ACHODE

JUDGE