

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

DIVORCE CAUSE NO. 233 OF 2013

BETWEEN

J P S M.....PETITIONER

AND

C N M.....RESPONDENT

JUDGEMENT

1. Marriage was celebrated between the parties herein on 26th November 1986 at the Office of the Registrar of Marriages in Nairobi. A certificate of marriage serial number *[particulars withheld]* was issued to them in accordance with the Marriage Act. The couple thereafter cohabited at Madaraka, KIMC and Golden Gate Estates in Nairobi, Kenya, as husband and wife. The couple was blessed with issue, two children, S M (born 1986) and M M (born 1990).
2. The petition in this matter was filed in court on 30th October 2013. The petitioner accuses the respondent of cruelty. He is said to have physically assaulted the petitioner in fits of anger by kicking, slapping and throwing objects at her. He is also said to be in the habit of insulting the petitioner in derogatory terms by calling her a prostitute and a stupid person. He is also accused of constantly threatening her with death. All these acts of cruelty are said to have caused the petitioner to flee the matrimonial home on 10th September 1999.
3. The petitioner seeks in the main dissolution of the marriage.
4. The petition was served on the respondent on 25th January 2013 and he did file appearance through counsel on 29th January 2014, but he did not file answer to the divorce petition nor a cross-petition. As there is no reply, the petitioner's allegations, as made in the petition, remain uncontroverted.
5. On 22nd May 2014 the Deputy Registrar certified that the matter proceeds for hearing as an undefended cause.
6. The petitioner testified on 17th July 2014 and gave vent to the allegations made in her petition. No counter evidence was given by the respondent, and therefore the petitioner's testimony was not controverted.
7. It would appear to me that the marriage between the parties herein has irretrievably broken down; the parties have been living separately since 1999. It would also appear to me that there has been no collusion between the petitioner and the respondent in the bringing of these proceedings. There is also no evidence that the petitioner has condoned the cruelty meted out on her by the respondent.
8. I hereby dissolve the marriage celebrated between the petitioner and respondent on 26th November 1986. Decree *nisi* shall issue forthwith, to be made absolute after thirty (30) days. There will be no orders as to costs.

DATED, SIGNED and DELIVERED at NAIROBI this 19TH DAY OF December 2014.

W MUSYOKA

JUDGE

In the presence of Mr. Orina advocate for the petitioner.