



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
DIVORCE CAUSE NO. 21 OF 2013
BETWEEN
M O.....PETITIONER
AND
L A O.....RESPONDENT

JUDGEMENT

1. Marriage was celebrated between the parties herein on 12th August 2010 at the office of the Registrar of Marriages, Nairobi. A certificate of marriage serial number *[particulars withheld]* was issued to them in accordance with the Marriage Act. The couple thereafter cohabited at Buru Buru and Pipeline Estates of Nairobi, Kenya, as husband and wife. The couple was blessed with two children – E S W (2006) and D N (2010).
2. The petition in this matter was filed in court on 29th January 2013. The petitioner accuses the respondent of cruelty and negligence. The particulars of cruelty being that the respondent has always treated the petitioner as an uncaring parent on account of his working abroad, severally threatened to call his employer to tell him to relieve him of his employment so that he could come home to care for his children, claimed that the petitioner's mother was a witch who had bewitched the couple's child, walking out of the marriage and the children without any or any just cause, insulting the petitioner and his close relatives, keeping the petitioner away from their daughter, among others.
3. The respondent is accused of having neglected to take care of the male child of the marriage by giving him painkillers instead of rushing him to hospital, the boy lapsed into a coma, and by the time he received medical attention he had already suffered brain damage. She is equally accused of exposing the girl child of the marriage to near-rape through neglect. The petitioner avers that he has custody of the male child yet the respondent has made no effort whatsoever to visit the child or even inquire about his welfare.
4. The petition was served on the respondent. She entered appearance on 26th February 2013. In her answer to the petition she denies the allegations made in the petition. She cross-petitions for dissolution of the marriage on grounds of cruelty, adultery and abandonment. She accuses the petitioner of showing her disrespect in front of the children, of abandoning the matrimonial bed and denying her conjugal rights, of sleeping at the seating room, committing adultery openly in front of their daughter, disowning her at Rwanda in front of their daughter, failing to provide for the respondent and the child of the marriage, among others.

5. On 3rd July 2013 the Deputy Registrar certified that the matter proceeds for hearing as a defended cause.

6. The petitioner testified on 9th October 2014 and gave vent to the allegations made in his petition. No counter evidence was given by the respondent, and therefore the petitioner's testimony was not controverted. I am satisfied that the respondent has been cruel to the petitioner.

7. It would appear to me that the marriage between the parties herein has irretrievably broken down. 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.

8. I am disposed to make the following orders: -

(a) That the marriage celebrated between the petitioner and respondent on 12th August 2010 is hereby dissolved;

(b) That decree *nisi* shall issue forthwith, to be made absolute after thirty (30) days; and

(c) That 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. Mwenda advocate for the applicant.