

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

DIVORCE CAUSE NO. 9 OF 2013

BETWEEN

V N M.....PETITIONER

AND

B N K.....RESPONDENT

JUDGEMENT

1. Marriage was celebrated between the parties herein on 28th April 1995 at the office of Registrar of Marriages, Nairobi. A certificate of marriage serial number *[particulars withheld]* was duly issued to them in accordance with the Marriage Act. The couple thereafter cohabited in Molo and Nairobi, Kenya, as husband and wife, until 2002 when they separated. The couple was blessed with issue, four children – A K (born in 1982) K M (born in 1984), V G (born in 1987) and A M (born in 1992).

2. The petition in this matter was filed in court on 12th January 2013. The petitioner accuses the respondent of cruelty and adultery. The particulars of cruelty are that the respondent has been physically abusive to the petitioner, has neglected the petitioner and their children and that he chased them out of the matrimonial home in 2002.

3. On adultery, it is alleged that the respondent has had affairs with different women unknown to the petitioner and since the separation he has been living with several women both known and unknown to the petitioner.

4. On 31st July 2014 the Deputy Registrar certified that the matter proceeds for hearing as an undefended cause. There is no reply to the petition and therefore the petitioner's allegations, as made in the petition, remain uncontroverted.

5. The petitioner testified on 18th September 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. I am satisfied from his evidence that the respondent has been cruel to her, by chasing her away from the matrimonial home and remarrying before their own marriage was dissolved.

6. It would appear to me that the marriage between the parties herein has irretrievably broken down. I note that the parties have been apart since 2002. It is also stated that the respondent has remarried and is living with other women. 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 by the respondent.

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

- a. That I hereby dissolve the marriage celebrated between the petitioner and respondent on 28th April 1995;
- 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