

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

DIVORCE CAUSE NO. 261 OF 2013

M O.....PETITIONER

VERSUS

K O M.....RESPONDENT

JUDGMENT

1. M O the petitioner in this divorce cause filed on petition on the 10/12/13. In the said petition she seeks to have the marriage between her and the petitioner dissolved. The Respondent is K O M. The Respondent filed a response to the petitioner on the 24/2/14. In his response he has denied the allegations made against him by the petitioner.

2. At the hearing of this cause each party testified. The petitioner testified as follows; that they got married on the 21/4/91 and they have been blessed with 4 children. After they got married they lived in Nairobi though the Respondent worked outside Nairobi. They have problems in the marriage. The respondent was unfaithful, she would find him with other women; that he was cruel and abusive and they struggled over the children for some time. The petitioner sought to have the marriage dissolved. She consented to the Respondent visiting the children.

3. The Respondent testified that they lived together despite the fact that he worked outside Nairobi that he retired from KTDA in 2001. In 2004 he got involved in accident and that necessitated him moving to Kisii; that he resides there but occasionally visits the family. He was last in Nairobi in 2009 and they have been separated since then due to some difference; that the Respondent allegations of adultery have not been proved, he has never raised a finger against her but he supports his children. He stated that it is not possible for them to reconcile.

4. Section 8 of the Matrimonial causes Act outlines the grounds for divorce. I have considered the evidence adduced by the petitioner. She has not proved the grounds of adultery nor cruelty. From the facts the parties have been separated for same since 2009. Their marriage has broken down irretrievably. Under the Marriage Act a marriage is considered to have broken down if the spouses have been separated for at least two years whether voluntary or by decree of the court. Both testified that there is no possibility that they will reconcile. I therefore dissolve the marriage between the petitioner and the Respondent that was celebrated at the District Commissioner's office in Kisii within the republic of Kenya. The Respondent shall have access to the children as agreed by the parties. A decree to issue and to be made absolute within 3 months from the date of this judgment. No orders as to costs. It is so ordered.

Dated signed and delivered this **18th** day of **December 2014**

R. E. OUGO

JUDGE

In the presence of:

.....**Petitioner**

.....**Respondent**