

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

DIVORCE CAUSE NO. 225 OF 2012

BETWEEN

E N N.....PETITIONER

AND

F M M.....RESPONDENT

JUDGEMENT

1. Marriage was celebrated between the parties herein on 6th October 2006 at the office of the Registrar of Marriage in Nairobi. A certificate of marriage serial number *[particulars withheld]* was issued to them in accordance with the Marriage Act. The couple resided at Umoja Estate in Nairobi after the celebration of the marriage. They were not blessed with issue.
2. The petition in this matter was filed in court on 27th November 2012. The petitioner accuses the respondent of cruelty and desertion. She is accused of abusing the petitioner emotionally by causing him mental anguish, stress and psychological suffering; continuously accusing him of being unfaithful and generally neglecting his emotional needs. On desertion, it is alleged that the parties have not shared the matrimonial bed since 2007, and have not related as husband and wife since then. The petitioner prays for dissolution of the marriage.
3. The petition was served on the respondent on 12th January 2013 as evidenced by the affidavit of service sworn on 18th March 2013 by a process server called Lawrence Gichana. She did not appear nor file answer to the petition. Consequently, on 9th May 2013 the Deputy Registrar certified that the matter proceeds for hearing as an undefended cause. As there is no reply, the petitioner's allegations, as made in the petition, remain uncontroverted.
4. The petitioner testified on 25th 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 story was not controverted.
5. I am satisfied from the recorded evidence that the respondent was cruel to the petitioner. She insulted the petitioner, accusing him of unfaithfulness. She has been away from him since 2007.
6. 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 proved in the matter.
7. I hereby dissolve the marriage celebrated between the petitioner and respondent on 6th October 2006. Decree *nisi* shall issue forthwith and shall be made absolute after thirty (30) days. There will be no orders as to costs.

DATED, SIGNED and DELIVERED at NAIROBI this 11th DAY OF December 2014.

W. MUSYOKA

JUDGE

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