



REPUBLIC OF KENYA

High Court at Meru

Divorce Cause 3 of 2012

P.K.A.....PETITIONER

VERSUS

D.N.A.....RESPONDENT

J U D G M E N T

The petitioner in her humble petition dated 8th May, 2013 seek that the marriage between the Petitioner and the respondent solemnized on 30th March, 1995 be dissolved on grounds of cruelty, desertion and adultery.

The respondent was served with petition on 4th June, 2012 as per affidavit of service dated 7th September, 2012. The respondent did not appear or file any answer to the petition. That the petitioner through Notice of Motion dated 18th September, 2012 sought directions which were given on 27th September, 2012. That on 16th January, 2013 the petition was set down for hearing on 19th February, 2012 when the petitioner's Counsel sought today's date for formal proof.

That on 6th May, 2013 this matter proceeded for formal proof. The petitioner introduced herself as a Principal of a mixed Secondary School within Meru Central District, within Meru County. That the petitioner and the respondent married under the Marriage Act on 30th March, 1995 at DC's Offices, Meru and lived together as wife and husband at Nairobi between 1995 and 2005. That the respondent is an Army Officer, attached to D.O.D Offices at Nairobi. That the petitioner and the respondent were blessed with three issues, namely E.K.N born in 1995, now 17 years old, E.G. born in 1999 and passed on in 2000 and R.N.N born in 2006, now aged 7 years.

The petitioner's evidence is that since 2004 the respondent stopped providing the petitioner and her children with basic needs and started committing adultery by moving about with women. That in 2006 he married another woman but later separated with her and started cohabiting with another woman and has been living an adulterous life. That the respondent denied the petitioner her conjugal rights and have never had sex with the petitioner since 2007.

The respondent brought another woman to the petitioner's bedroom and the petitioner had to leave the matrimonial home since 2007 as she had no room to stay in. That the respondent was violent and threatened the petitioner with assault and used abusive language against her.

The petitioner stated that the respondent has refused with the marriage certificate and as such she could not produce the same. She further testified that she had filed suit for custody and maintenance of the minor child R at Tigania Law Courts being SPM Children Case NO. 3 of 2008 which decided that she

keeps custody of the minor and order sharing of the responsibility of the minor. She testified that she is not seeking custody of the child and maintenance as that issue has already been resolved in the said Children's Court. She further testified that she is not interested in the costs of the cause herein.

Having considered the petitioner's unchallenged evidence, it is evident that the marriage between the petitioner and the respondent has irretrievably broken down without any hope of revival or repair. The petitioner has proved on balance of probability that the respondent is guilty of cruelty, desertion and adultery.

Consequently, I dissolve the marriage between the petitioner and the respondent. A decree Nisi shall issue forthwith. Decree absolute to issue within six (6) months from the date of the judgment or within such a shorter period upon application by either party.

The petitioner shall bear her own costs. There will be liberty to apply for any order in relation to the minor in connection with issues of access or any other issue affecting the said minor.

DATED, SIGNED AND DELIVERED AT MERU THIS 23RD DAY OF MAY, 2013.

J. A. MAKAU

JUDGE

DELIVERED IN OPEN COURT IN THE PRESENCE OF:

- 1. Mr. Isaboke for the petitioner**
- 2. Petitioner – present**
- 3. C/clerk Penina/Kathurima**

J. A. MAKAU

JUDGE