

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

DIVORCE CAUSE NO. 138 OF 2011

BETWEEN

A V L.....PETITIONER

AND

E O O.....RESPONDENT

JUDGEMENT

The petitioner in this matter married the respondent on 10th January 1996 at a ceremony at a ceremony at the Attorney-General's Chambers in Nairobi. A certificate of marriage was duly issued, copy of which is attached to the petition filed in court in this cause. The couple thereafter cohabited at Nairobi. There are two issues of the marriage – B C (minor) and A S O (minor), born in 1996 and 1997.

The petition herein was filed in court on 22nd August 2011. In it the petitioner accuses the respondent of neglect and cruelty towards her. The respondent is said to have forced the petitioner out of the matrimonial home, and thereby forcing her to constructively desert the respondent since 2004. During the period, the respondent is said to have had no interest at all towards the petitioner. The particulars of cruelty are itemised in the petition – physical assault, neglect, lack of maintenance, evicted the petitioner and the children away from the matrimonial home and ungovernable temper

The petition and the notice to appear were served on the respondent and he filed an answer to petition and a cross-petition. He accuses the petitioner of cruelty – deserting the matrimonial home, denial of conjugal rights, contempt and neglect,

Both sides gave vent to their respective cases when they testified orally in court on 2nd May 2013. Both indicated that their marriage is beyond repair as reconciliation was not feasible. They stated that the matters touching on the children had been resolved by the Children's Court.

It appears to me that the marriage between the parties has completely broken down. It would also appear to me that there has been no collusion between the petitioner and the respondent in bringing these proceedings. There is also no evidence that both parties have condoned the cruelty and desertion.

I will allow the petition dated 17th August 2011. The marriage celebrated between the petitioner and respondent on 10th January 1996 is hereby dissolved. Decree *nisi* shall issue forthwith, to be made absolute after fourteen (14) days. There will be no orders as to costs.

DATED, SIGNED and DELIVERED at NAIROBI this 25th DAY OF July, 2013.

W.M. MUSYOKA

JUDGE

