

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

DIVORCE CAUSE NO.237 OF 2012

D O O.....PETITIONER

VERSUS

M A O.....RESPONDENT

JUDGMENT

The Petitioner and the Respondent were married on 8th June 2011 at the Registrar's Office in Nairobi. The marriage was celebrated under the **Marriage Act**. After the celebration of the said marriage, the Petitioner and the Respondent cohabited together as husband and wife in Nairobi. The marriage was blessed with one (1) issue. According to the Petitioner, since the celebration of the said marriage, the Respondent had treated him with cruelty. In particular, the Respondent had threatened and verbally abused him. He accused the Respondent of denying him his conjugal rights thereby subjecting him to suffer depression and mental anguish. The Petitioner alleged that the Respondent deserted from the matrimonial home leaving behind the issue of the marriage. The Petitioner avers that all efforts by the Petitioner, family members and friends to reconcile them had failed. The Petitioner was of the view that the Respondent's refusal to return to the matrimonial home meant that his marriage to the Respondent had irretrievably broken down with no hope of reconciliation. In the premises therefore, he Petitioner urged the court to grant his petition for divorce and dissolve the marriage.

The Respondent was served with a copy of the petition for divorce together with a notice requiring her to enter appearance. She did not enter appearance. Neither did she file any answer to the petition. The Deputy Registrar of this court issued a certificate certifying this case as a suitable cause to be disposed of as an undefended divorce cause. During the hearing of the cause, this court heard oral evidence adduced by the Petitioner. He essentially reiterated the contents of his petition for divorce. He told the court that the Respondent was abusive towards him and had denied him his conjugal rights. According to the Petitioner, any effort at reconciliation had been unsuccessful. He stated that he did not know the whereabouts of the Respondent since she left their matrimonial home early in 2012. This court has considered the evidence adduced by the Petitioner in this cause. It was clear to the court that the marriage between the Petitioner and the Respondent had indeed irretrievably broken down with no possibility of reconciliation. The Petitioner and the Respondent only lived together for less than a year. They have since been separated for a period of more than one (1) year. Efforts at reconciliation have proved unsuccessful. The Petitioner established the matrimonial offence of cruelty. In the premises therefore, this court will grant petition for divorce.

The marriage celebrated on 8th June 2011 at the Registrar's Office in Nairobi between the Petitioner and the Respondent is hereby dissolved. Degree nisi dissolving the said marriage is hereby issued. The decree nisi shall be made absolute thirty (30) days from the date of this judgment. There shall be no orders as to costs.

DATED AT NAIROBI THIS 22ND DAY OF NOVEMBER 2013.

L. KIMARU

JUDGE