



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

DIVORCE CAUSE NO. 1 OF 2018

P R N K.....PETITIONER

VERSUS

J M M N.....RESPONDENT

JUDGMENT

1. The Petitioner then a spinster and the Respondent then a bachelor solemnized their marriage on 14th November, 2014 at the Office of the City Clerk, New York in the United States. A certificate of marriage of licence number M-xxxx-xxxxxx was issued to them. The couple thereafter cohabited for one (1) year in [particulars withheld], New York. Their marriage was not blessed with any issues.

2. The Petition filed on 9th March, 2018 is premised on the ground that the marriage has irretrievably broken down as particularized in the Petition. The Petitioner states that she and the Respondent have been living separately since November, 2015 and have not resumed cohabitation since. Repeated efforts to salvage the marriage have proved futile.

3. The Petitioner is a resident of Kenya while the Respondent's last known residence was Cote D'ivoire. The Petitioner is an accountant by profession while the Respondent is a Human Resource Manager. The parties have not been in communication since 2017.

4. The Petitioner averred that before she and the Respondent lost touch, the Respondent had indicated that he was not interested in the marriage. They have not seen each other since November, 2015 when the Respondent left their matrimonial home in New York.

5. The Petitioner urged that the marriage has irretrievably broken down and asked the court to dissolve the marriage between her and the Respondent. The Petitioner confirmed that this Petition has not been presented or prosecuted in collusion with the Respondent.

6. On 11th October, 2018 the Deputy Registrar certified that the matter was suitable to proceed for hearing as an undefended cause for one day before a single judge.

7. At the hearing of the Petition on 17th January, 2019 the Petitioner stated that attempts to reconcile with the Respondent have failed, and that there was no possibility of reconciliation. On 5th July, 2018 this court granted the Petitioner leave to serve the Respondent by way of substituted service. The Respondent was consequently served with the Petition and Notice to appear through electronic mail on 6th July, 2018. The Respondent confirmed receipt of the documents as served but did not file an answer to the Petition nor appear in court.

8. I have perused the evidence of the Petitioner to establish whether the ground set out in the Petition has been proved. The grounds upon which a civil marriage may be dissolved are provided under **section 66(2)** of the **Marriage Act No. 4 of 2014** as:

(a) adultery by the other spouse;

(b) cruelty by the other spouse;

(c) exceptional depravity by the other spouse;

(d) desertion by the other spouse for at least three years; or

(e) the irretrievable breakdown of the marriage.

9. It is not denied that the parties have not cohabited from the year 2015 to date which is a period of over three (3) years. Efforts at reconciliation have come to naught. It is evident therefore that the marriage celebrated between the parties herein on 14th November, 2014 cannot work and has irretrievably broken down with no hope of being salvaged. In the premise, I find that the Petition has merit and I allow it with orders as follows:

(a) That the marriage celebrated between the Petitioner and the Respondent at the Office of the City Clerk, New York in the United States on 14th November, 2014 is hereby dissolved.

(b) That a Decree nisi dissolving the said marriage is hereby issued to be made absolute thirty (30) days from the date of this judgment.

(c) There shall be no orders as to costs.

SIGNED DATED and DELIVERED in open court this 7th day of **February, 2019**.

.....

L. A. ACHODE

HIGH COURT JUDGE

In the presence of.....Advocate for the Petitioner.