



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAKURU

DIVORCE CAUSE NUMBER 12 OF 2014

W K R.....PETITIONER

VERSUS

M C W.....RESPONDENT

JUDGMENT

1. By way of a petition, W K R (Petitioner) seeks orders;

- (a) A decree nisi and a decree absolute do issue nullifying the marriage between the Petitioner and the Respondent.**
- (b) Custody of the children be granted to the Petitioner.**
- (c) The Respondent be condemned to pay the costs of this suit.**
- (d) Any other relief this Honourable Court may deem just and fit to grant.**

2. The petition is premised on grounds adultery and desertion as particularized at paragraph 4 of the petition namely;

- (a) Having an affair with D K.**
- (b) Running away from the matrimonial home for long periods of time on various occasions.**
- (c) Neglecting children at their tender years.**
- (d) Causing the Petitioner mental anguish.**
- (e) Threatening to kill the petitioner by poisoning him.**
- (f) Leaving the matrimonial home without notice since the year 2002.**
- (g) Writing letters to other men such as L S.**

3. Despite clear evidence of service, there was no response to the petition and matter proceeded exparte.

4. In evidence, the Petitioner produced a marriage certificate confirming the existence of the marriage. He stated that they were blessed with 2 children. The 2 separated in 2002 and have not lived together since. Their differences, he stated, are irreconcilable.

5. He stated that he would come home and would not find the Respondent. He established that she was living with one D K. He actually reported the matter to the father of D K. He stated he has been taking care of the children. He sought divorce and custody of the children.

6. I have had occasion to consider the petition and the evidence adduced. The Petitioner's evidence is not controverted. The separation of the parties to-date is about 16 years. The evidence of adultery and desertion is not challenged.

7. I am satisfied that the marriage herein has irretrievably broken down and its dissolution is the only route beneficial to the parties.

8. I have also noted that the Petitioner has been solely responsible for the upkeep of the issues of the marriage. The prayer for custody is not challenged. The same should also be allowed. Consequently, I allow the petition herein. The marriage between the Petitioner and Respondent is hereby dissolved. A decree nisi is to issue. The custody of the issues of the marriage namely R K and S J is given to the Petitioner. The Petitioner shall have costs of the petition.

Dated and Signed at Nakuru this 11th day of June, 2018.

A. K. NDUNG'U

JUDGE