

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT GARISSA

DIVORCE NO. 1 OF 2018

V S.....PETITIONER

VERSUS

J W.....RESPONDENT

JUDGEMENT

1. The petitioner filed a petition in this court on 18th June 2018 against the respondent. He stated in the petition that they were married under the African Christian Marriage Act at Karatina in Nyeri County in 6th April 2002 and that they had five (5) children who are now all dead.
2. He sought dissolution of marriage due to cruelty and adultery. According to him, the respondent physically, verbally and emotionally abused him over trivial issues and constantly harassed him. He also stated that since 2016, the respondent had committed adultery with several men unknown to him and that currently she was living together with a man. He stated that the marriage had broken irretrievably and thus wanted this court to dissolve the marriage.
3. The respondent was served with a notice to appear. Though she was served, she did not respond to the petition. The matter therefore proceeded for hearing as undefended petition though the court ordered that she be served with the hearing notice.
4. On the hearing date, which was 22nd October, 2018, the petitioner stated that he even gave fare to the respondent to attend court but she said she would not attend the hearing. He stated that the respondent did not want to come back to him again as she was already living with another man.
5. Having considered the petition and the evidence of the petitioner. I find that this marriage has broken down irretrievably and there is no chance of salvaging it at this time. The respondent has been away from the matrimonial home since 2016. She has not responded or opposed the petition. She has also not bothered to attend court to explain her position. In my view, the petitioner has proved the allegations he has leveled against the respondent. The respondent has treated the petitioner with cruelty and has also deserted the matrimonial home. Those are sufficient grounds for divorce. In addition, the respondent has not bothered to respond to the petition for divorce which means that she does not oppose the petition.
6. I thus allow the petition and dissolve the marriage herein. A decree nisi for divorce is hereby issued which will become absolute after the lapse of 30 days from today.
7. Parties will bear their respective costs of the petition.

Dated and delivered at Garissa this 21st Day of November 2018.

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George Dulu

JUDGE