



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

FAMILY DIVISION

DIVORCE CAUSE NO. 63 OF 2014

C W W.....PETITIONER

VERSUS

S M M.....RESPONDENT

JUDGEMENT

1. Marriage was celebrated between the parties herein on 24<sup>th</sup> November 2000 at the Registrar's Office at Nairobi. A certificate of marriage, serial number [particulars withheld], was duly issued under the Marriage Act, Cap 150, Laws of Kenya (now repealed). The couple cohabited at Nairobi and Kiambu as husband and wife. They were blessed with issue, three children – N W M (born on 19<sup>th</sup> April 2003), J M M (born on 16<sup>th</sup> February 2007) and M W M (26<sup>th</sup> February 2012).

2. The petition herein was filed on 19<sup>th</sup> March 2014. It seeks dissolution of the marriage. The petitioner accuses the respondent of cruelty. He is said to have assaulted her on 3<sup>rd</sup> March at their residence in Ndenderu. He is also accused of neglecting to provide for the needs of the children and the petitioner. She pleads that the marriage has irretrievably broken down.

3. There is also pleading about the children of the marriage. The petitioner states that she has been caring for the children without support from the respondent. It is on those grounds that she would like custody of the children granted to her.

4. The petition was served as evidenced by the affidavit of service on record sworn by Justus Mutava on 8<sup>th</sup> April 2014. He never appeared nor filed answer or cross-petition. The cause was subsequently cleared and certified by the Deputy Registrar on 13<sup>th</sup> May 2016 to proceed as undefended.

5. The matter was heard on 10<sup>th</sup> October 2016. The petitioner testified. In her testimony she gave vent to the allegations made in her petition. As the cause was undefended the petitioner's testimony was not controverted.

6. From the material placed before me it is plain that the marital relationship between the petitioner and the respondent has totally broken down. I have noted from the testimony of the petitioner that the parties have been living apart since 2014.

7. In the circumstances, I am moved to make the following final orders:-

a. **That I allow the petition herein dated 19<sup>th</sup> March 2014 and decree that the marriage between the petitioner and the respondent, celebrated on 24<sup>th</sup> November 2000, is hereby dissolved;**

b. **That decree *nisi* shall issue forthwith, to be made absolute after thirty (30) days;**

c. **That as it was not pleaded nor any evidence led on the prayer for injunction, I shall not grant the same;**

**d. That all issues relating to custody and maintenance of the children of marriage to be placed before the Children's Court; and**

**e. That there shall be no order as to costs.**

**DATED, SIGNED and DELIVERED at NAIROBI this 3<sup>RD</sup> DAY OF FEBRUARY, 2017.**

**W. MUSYOKA**

**JUDGE**