



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT MOMBASA
FAMILY DIVISION
DIVORCE CAUSE NO. 66 OF 2015

D H G RPETITIONER

VERSUS

V M VRESPONDENT

JUDGMENT

1. D H G R the Petitioner herein married V M V, the Respondent herein on 14.6.13 at the [Particulars withheld] Club. The couple was issued with marriage certificate serial number [Particulars withheld] which was produced in Court as proof of the fact of the marriage. **Following the marriage, the couple resided in the Respondent's home in Parklands, Nairobi. The marriage is not blessed with any children.**

2. By an Amended Petition filed on 19.1.17, the Petitioner seeks the dissolution of her marriage to the Respondent. Although the Respondent was served with the Petition and Notice to Appear, he failed to file appearance. The matter therefore proceeded as an undefended cause.

3. In her Petition as well as in her uncontroverted testimony before the Court, the Petitioner stated that after the marriage ceremony, she moved into the Respondent's home in Parklands Nairobi. The marriage was however not consummated as they did not live as husband and wife. The Respondent was moody, reserved and non-communicative and kept his distance from the Petitioner. She stated that despite living with the Respondent together with his parents, hers was an isolated life. The Respondent did not show her any love or affection. As a result of the Respondent's conduct, the Petitioner moved back to her parents' home in February 2015. Both her parents and the Respondent's father tried to reconcile them but without success. The marriage has irretrievably broken down and the Petitioner prays that the same be dissolved.

4. I have considered the Petition and the uncontroverted testimony of the Petitioner and it is evident that the marriage herein has irretrievably broken down. The marriage was conducted at the [Particulars withheld] Club by the Registrar of Marriages. It is therefore a civil marriage. The Marriage Act, 2014 at Section 66(2) provides for the grounds upon which a civil marriage may be dissolved. These include:

- (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”

5. This is a sad situation where a young woman gets marriage with every hope of a happy and blissful married life but her husband treats her with little regard. He wilfully refuses to consummate the marriage in spite of living in the same house with his wife. He remains moody and uncommunicative and keeps his distance from his wife. From the testimony of the Petitioner, it would appear that there is no hope for the marriage herein which has irretrievably broken down. The parties separated in February 2015 and have not resumed cohabitation. All attempts at reconciliation have failed.

6. In view of the foregoing, I pronounce a decree of divorce and order that the marriage between the Petitioner and the Respondent **solemnized at the [Particulars withheld] Club on 14.6.13** be and is hereby dissolved. Decree *nisi* to issue and the same to be made absolute within 1 month.

DATED, SIGNED and DELIVERED in MOMBASA this 3rd February 2017

M. THANDE

JUDGE

In the presence of: -

..... **for the Petitioner**

..... **for the Respondent**

..... **Court Assistant**