



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI
DIVORCE CAUSE NO. 31 OF 2015

BETWEEN

S SPETITIONER

AND

B S NRESPONDENT

J U D G E M E N T

1. The Petitioner then a spinster and the Respondent then a divorcee were married on 12th October, 2007 at the Registrar's Office in Nairobi. A certificate of marriage serial Number [particulars withheld] was issued to them in accordance with the **Marriage Act (Cap 150 Laws of Kenya)**. The couple thereafter cohabited at Parklands in Nairobi. They were not blessed with any issues of the marriage.

2. The Petition filed on 18th February 2015 is premised on grounds of cruelty to the Petitioner by the Respondent as particularised in the Petition. In the particulars of cruelty the Petitioner stated that the Respondent exhibited an utmost contemptuous and disrespectful attitude towards her. That the Respondent neglected her and ignored her parents and especially her aged sick mother who is now deceased. The Petitioner complained that the Respondent refused to give her financial support, or to have any marital relations with her and that she was forced to become a social recluse by the Respondent's behaviour.

3. The Petitioner further asserted that due to the Respondent's behaviour, she left him and the matrimonial home on or about 21st March 2012 and the Respondent has not allowed her to access her belongings in the matrimonial home including clothes, books and shoes.

4. The Petitioner urged that due to the aforesaid acts of cruelty, she strongly feels that they cannot continue to hold out as husband and wife with the Respondent. She therefore, asked the court to:

- a. Dissolved the marriage between her and the Respondent.
- b. Be allowed to get all her belongings from the Respondent.
- c. Condemn the Respondent to pay the cost of this cause.
- d. Order the Respondent to provide alimony/maintenance and secured provision by way of a lump sum amount.

e. Provide any other or relief that the court would deem fit.

5. The Petitioner confirmed that this Petition has not been presented or prosecuted in collusion with the Respondent, nor has she connived or condoned the acts of cruelty.

6. On 8th May 2015 the Respondent filed an answer to the petition together with a cross-petition, in which he particularised grounds of cruelty said to have been visited upon him by the Petitioner. On 8th October, 2015 the Deputy Register certified that the matter was suitable to proceed for hearing as a defended cause for one day in Nairobi.

7. During the hearing on 24th November, 2016 the parties recorded a consent in which the Respondent agreed to pay the Petitioner the sum of Kshs.1 million in full and final settlement of the claim for alimony, maintenance and secured provisions. The said amount was to be released to the Petitioner's Advocate by the Respondent's Advocate.

8. Pursuant to the consent prayer (b) and (d) of the Petition were settled and withdrawn respectively. Prayers (b),(c),(e) and (f) in the cross-petition were marked as withdrawn. Prayer (d) of the cross-petition was marked as settled. In effect all the prayers of the cross-petition were compromised save for prayer (a) in which the Respondent also asked for dissolution of marriage.

9. By further consent the matter proceeded as an undefended cause for purposes of enabling the Petitioner to formally ask for the dissolution of the marriage.

10. I have perused the grounds of the petition and the evidence of the Petitioner. It is not denied that the parties have not cohabited since the year 2012 to date due to irreconcilable differences. Both parties are agreed that the marriage celebrated between them on 12th October, 2007 cannot work and has broken down irretrievably with no hope of being salvaged.

11. In the premise the Petition is found to have merit and is allowed with orders as follows:

a. That the marriage celebrated between the Petitioner and Respondent at the Registrar's office in Nairobi on 12th October, 2007 be and is hereby dissolved.

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

c. That as agreed by consent the Respondent do pay to the Petitioner the sum of Kshs.1 million in full and final settlement of the claim, for alimony, maintenance and secured provision. The said amount to be released to the Petitioner's advocate by the Respondent's Advocate upon production of the Decree Nisi.

d. There shall be no orders as to costs.

SIGNED DATED and DELIVERED in open court this **8th day of December, 2016.**

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L. A. ACHODE

JUDGE

In the presence ofAdvocate for the Petitioner

In the presence ofAdvocate for the Respondent