



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI

DIVORCE CAUSE NO. 116 OF 2013

BETWEEN

E A M.....PETITIONER

AND

P O A.....RESPONDENT

JUDGEMENT

1. Marriage was celebrated between the parties herein on 6th June 2001 at the office of the Registrar of Marriages, Nairobi. A certificate of marriage serial number [*particulars withheld*] was issued to them in accordance with the Marriage Act. The couple thereafter cohabited in Nairobi, Kenya, as husband and wife. They were blessed with issue, two children – B M A and T M A.
2. The petition in this matter was filed in court on 13th June 2013. The petitioner seeks dissolution of their marriage on the grounds of cruelty, desertion and adultery.
3. The particulars of cruelty being that the respondent has been habitually disrespectful to the petitioner and her people, persistently denying the petitioner her conjugal rights, consistently refusing to submit to necessary medical checks, showing lack of care and concern for the children of the marriage, neglecting the children and leaving them solely at the care of a nanny, denying the petitioner her consortium, consistently refusing to take meals at home, abandoning his duties as husband and father, among other grounds
4. The particulars of respondent's alleged desertion are that the respondent has over the last years prior to the filing of the petition left the home she shared with the petitioner for extended periods of time without justifiable cause with an apparent intention of brining the cohabitation with the petitioner permanently to an end, maintaining a cohabitation with another woman, among others. The details on adultery are that he has committed adultery with various women, some of whom are named in the petition although not joined as co-respondents.
5. The respondent was served with the divorce papers. He entered appearance and filed an answer to the petition. He states that the parties initially married under customary law prior to the celebration of the statutory marriage. He denies the allegations made against him in the petition, inclusive of the allegations of adultery, and instead blames the petitioner for the troubles in the marriage. He accuses her of being an absentee spouse who works away from home and is away for extended periods of time leaving the respondent alone to raise their children alone. He complains that despite he shouldering the sole responsibility of raising the children, the petitioner has been rude and arrogant towards him.

6. The petitioner reacted to the allegations in the answer to the petition by filing a reply to the answer to the petition. She denies all the allegations made in the answer to the petition, and reiterates the allegations made in her petition.
7. On 10th April 2014 the Deputy Registrar certified that the matter proceeds for hearing as a defended cause.
8. When the matter came up for hearing, the parties agreed by consent that the ground for adultery be dropped, and that the matter proceeds purely on the ground that the marriage had irretrievably broken down. It was also agreed that the respondent would not offer evidence.
9. The petitioner testified and gave vent to the allegations made in her petition. No counter evidence was given by the respondent, and therefore the petitioner's story was not controverted.
10. It would appear to me that the marriage between the parties herein has irretrievably broken down. It would also appear to me that there has been no collusion between the petitioner and the respondent in the bringing of these proceedings.
11. I am disposed to make the following orders: -
 - a. That I hereby dissolve the marriage celebrated between the petitioner and respondent on 6th June 2001;
 - b. That decree *nisi* shall issue forthwith and shall be made absolute after thirty (30) days; and
 - c. That there will be no orders as to costs.

DATED, SIGNED and DELIVERED at NAIROBI this 6th DAY OF March 2015.

W. MUSYOKA

JUDGE