

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

DIVORCE CAUSE NO. 79 OF 2014

BETWEEN

O A G L.....PETITIONER

AND

J O D.....RESPONDENT

JUDGEMENT

1. Marriage was celebrated between the parties herein on 2nd June 2001 at the Consolata Shrine, Nairobi. A certificate of marriage serial number [*particulars withheld*] was issued to them in accordance with the African Christian Marriage and Divorce Act. The couple thereafter cohabited in Kilimani and Kileleshwa Estates in Nairobi, Kenya, as husband and wife. They were blessed with issue, two children – T A J L and T O O L.
2. The petition in this matter was filed in court on 8th April 2014. The petitioner seeks dissolution of the marriage on the grounds of cruelty. The particulars of cruelty being that the respondent has been unnecessarily argumentative, treated the petitioner in a contemptuous and patronising manner, constantly lying to her, treating the petitioner as a child and not as an equal to the respondent, denial of conjugal rights, among others. She pleads that in view of the said matrimonial offences the marriage between them has irretrievably broken down.
3. The respondent was served with the divorce papers. There is an affidavit of service on record filed on 9th June 2014, sworn on 31st May 2014, as evidence that the divorce papers were served on the respondent on 5th May 2014.
4. The respondent did not enter appearance nor file an answer to the petition on record. Consequently, the Deputy Registrar directed on 23rd October 2014 that the matter shall proceed as an undefended cause..
5. The matter came up for hearing on 11th December 2014. 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.
6. It would appear to me that the marriage between the parties herein has irretrievably broken down. I find that the respondent has been cruel to the petitioner. It would also appear to me that there has been no collusion between the petitioner and the respondent in the bringing of these proceedings.
7. I am disposed to make the following orders: -
 - a. That I hereby order dissolution of the marriage celebrated between the petitioner and respondent dated 2nd June 2001 ;
 - b. That there will be no orders as to costs.

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

W. MUSYOKA

JUDGE