



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
MILIMANI LAW COURTS
FAMILY DIVISION
DIVORCE CAUSE NO. 166 OF 2012

W.M.....PETITIONER

VERSUS

A.M.....RESPONDENT

JUDGMENT

1. The petitioner and respondent, both Kenyan Citizens, got married on 2nd April 2007 in the County of Dallas, United States of America. Subsequent to the marriage, they cohabited as husband and wife at the following places:-

- a. Dallas County, Texas, U.S.A April 2007- July 2009; and
- b. Nairobi Kenya, from February 2010- May 2010.

2. There are no issues to the said marriage. Both parties are domiciled in Kenya. The petitioner filed this petition dated 10th September 2012 seeking the dissolution of the said marriage on the ground of cruelty. It was her plea that since the celebration of the marriage the respondent has treated her with cruelty, the particulars of which she listed. Further, that since May 2010 the respondent deserted their matrimonial home and cohabitation has not taken place since then. She stated that there is no hope or possibility of reconciliation as their differences are of an irreconcilable nature and the marriage has irretrievably broken down. It is for the aforementioned reasons that she prayed for dissolution of the marriage as well as costs.

3. The respondent entered appearance but failed to take any further step. For this reason, this court ordered the cause to proceed as an undefended cause. The petitioner gave her oral testimony in court. She testified that subsequent to their marriage they lived in Texas until July 2009 when the respondent relocated back to Kenya. The petitioner remained behind in Texas till February 2010 when she joined him in Kenya. She testified that when they lived in the USA the respondent walked out of the marriage three times. She further testified that they stayed together till May 2011 when the respondent walked out of the marriage and left the wedding ring on the table. Upon joining him in Kenya, the respondent kicked him out of the house. This was only two weeks upon her return. They were later to reconcile but after a short time of staying together he walked out saying he wanted a break from the marriage. She testified that this instability in their marriage is embarrassing and has caused her untold pain. Efforts by their parents and relatives to intervene have been futile as the respondent does not cooperate.

4. The petitioner's evidence was not challenged. I accept the evidence and find that the respondent was guilty of cruelty and desertion. On those grounds I order the dissolution of the marriage. *Decree Nisi* shall

issue forthwith and shall become absolute after 30 days. The petitioner indicated that she was not interested in costs.

DATED at NAIROBI this 7th day of April 2015

A.O. MUCHELULE

JUDGE

DELIVERED at NAIROBI this 7th day of April; 2015

W. MUSYOKA

JUDGE