

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

MILIMANI LAW COURTS

FAMILY DIVISION

DIVORCE CAUSE NO.168 OF 2012

Z.K.M.....PETITIONER

VERSUS

P.M.M.....RESPONDENT

JUDGMENT

1. The petitioner and respondent are both Kenyan citizens got married in 1986 under Kamba customary law. They later on solemnized their marriage under the provisions of the Marriage Act (Cap 150) at the Registrar's Office in Nairobi on 9th June 2002. They cohabited together as husband and wife in Kilimani Estate, Nairobi, and were blessed with two issues. They are B K born in 1997 and K M born in 2000.
2. The petitioner filed this petition dated 31st August 2012 seeking the dissolution of the marriage on the grounds of adultery and cruelty on the respondent's part. It is his case that since the celebration of the marriage, the respondent has been guilty of adultery with various men. Further, that the respondent has been guilty of cruelty towards the petitioner and his parents by perpetually abusing and mistreating the said parents. He went on to list the particulars of cruelty, stating that the same has caused him a lot of distress and disgrace among his parents and relatives. He further stated that they have lived separately for six years and that the marriage had irretrievably broken down with no likelihood of reconciliation. It is for this reason that he prayed that the marriage be dissolved, that he be granted unrestricted access to the children and that the respondent do pay costs of the cause.
3. The respondent did not enter appearance or file a reply to the petition, despite being served with notices. The court directed the matter to proceed as an undefended cause. The petitioner gave his oral testimony in which he reiterated what was stated in the Petition.
4. The petitioner's evidence was not challenged. I accept the evidence and find that the respondent was guilty of cruelty and adultery. On those grounds, I order the dissolution of the marriage. *Decree Nisi* shall issue forthwith and shall become absolute after 30 days. The petitioner shall have unrestricted access to the children. The respondent shall pay costs of the petition.

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