

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

DIVORCE CAUSE NO. 134 OF 2012

F M OPETITIONER

VERSUS

H P O O.....RESPONDENT

JUDGMENT

The petitioner and the respondent got married on 23rd September 1997 at the Attorney General's Office's in Nairobi, Kenya. There are two children of the union namely; **A O** born on the 5th day of February 1992 and **T O** born on the 2nd day of September 1996. The petitioner is a banker by profession while the respondent is a lecturer by profession. The petitioner avers in her amended petition filed in Court on the 24th March 2015 that the marriage between them has irretrievably broken down and she denies being an accessory to or condoning the cruelty complained of in the petition and sought.

She particularized events leading to the marriage irretrievably breaking down as follows that;

- a. The respondent has failed to provide emotional and psychological support to the petitioner and abandoned his spousal duties towards the petitioner.
- b. In 2008 the respondent for no unjustifiable cause abandoned the petitioner.
- c. Since 2008, the petitioner and respondent have not resumed cohabitation and have resided separately. No conjugal relations have taken place between the parties since then.
- d. The respondent has been an absentee parent, leaving the petitioner to cater for the psychological, emotional and physical needs of the children.
- e. The marriage between the parties is consequently at an end.

The petitioner in her testimony reiterated the averments as raised in her petition adding that the parties no longer live together. That the respondent has not been there for her and the children and that the marriage had irretrievably broken down. On cross examination she added that the respondent has another family and is currently living with them in Kileleshwa.

The respondent alleges that the marriage has irretrievably broken down. The petitioner in her testimony stated that the respondent abandoned the matrimonial home in 2008 without any reasonable cause and has not gone back. Desertion is a ground for divorce provided for under the Matrimonial Causes Act Cap 152 (now repealed) and also the Marriage Act 2014. The petitioner also stated that the respondent already has another family this in my view is evidence enough that the marriage between the parties has irretrievably broken down and there is no possibility of reconciliation, I also note that they have been apart since 2008. The evidence of the petitioner was not challenged. This court therefore dissolves the marriage between the Petitioner and the Respondent celebrated on 23rd September 1997. A decree nisi to issue forthwith and to be made absolute within 30 days. Each party to bear its own costs. It is so ordered.

Dated, signed and delivered this 5th day of *June* 2015.

R. E. OUGO

JUDGE

In the presence of:-

.....**For the Petitioner**

.....**For the Respondent**

.....**Court Clerk**