

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI
DIVORCE CAUSE NO. 65 OF 2012

D.N.F.....PETITIONER

VERSUS

B.K.M.....RESPONDENT

J U D G M E N T

The Petitioner and the Respondent were on 24th January 2007 married at the Registrar's Office in Nairobi. The marriage was celebrated under the **Marriage Act**. After the celebration of the said marriage, the Petitioner and the Respondent cohabited together as husband and wife in Nairobi. The marriage has been blessed with one issue aged five (5) years. According to the Petitioner, the Respondent deserted from the said matrimonial home in 2010. Since then, he has not returned to the matrimonial home. The Petitioner accused the Respondent of treating her with cruelty. The Petitioner stated that the Respondent had been verbally abusive causing her to suffer emotionally. The Petitioner further accused the Respondent of committing the matrimonial offence of adultery. According to the Petitioner, the Respondent sired two (2) children out of wedlock. For the above reasons, the Petitioner was of the view that her marriage to the Respondent had irretrievably broken down with no chance of reconciliation. In the premises therefore, the Petitioner urged the court to grant her petition for divorce and dissolve the marriage.

The Respondent was served with a copy of the petition for divorce together with a notice requiring him to enter appearance. He did not enter appearance. Neither did he file any papers in opposition to the petition for divorce. The Deputy Registrar of this court issued a certificate certifying that this was a suitable cause to be disposed of as an undefended divorce cause. During the hearing of the cause, this court heard oral evidence adduced by the Petitioner. She essentially reiterated the contents of her petition for divorce. She told the court that she moved from her matrimonial home in June, 2010 due to the Respondent's adulterous relationships. This court has considered the evidence adduced by the Petitioner in this cause. It was clear to the court that the marriage between the Petitioner and the Respondent has indeed irretrievably broken down with no possibility of reconciliation. The Petitioner and the Respondent have been separated for a period of more than three (3) years. The evidence adduced by the Petitioner was uncontroverted. The Petitioner established to the required standard of proof on a balance of probabilities the matrimonial offences of desertion, cruelty and adultery. In the premises therefore, this court will grant petition for divorce.

The marriage celebrated on 24th January 2007 at the Registrar's Office in Nairobi between the Petitioner and the Respondent is hereby dissolved. Decree nisi dissolving the said marriage is hereby issued. The decree nisi shall be made absolute thirty (30) from the date of this judgment. There shall be no orders as to costs.

DATED AT NAIROBI THIS 7TH DAY OF FEBRUARY 2014.

L. KIMARU

JUDGE