



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

DIVORCE CAUSE NO. 3 OF 2013

BETWEEN

D R V.....PETITIONER

AND

M M V.....RESPONDENT

JUDGEMENT

1. Marriage was celebrated between the parties herein on 23<sup>rd</sup> August 1998 at the Shree Cutchi Leva Patel Samaj in Nairobi. A certificate of marriage serial number **[particulars withheld]** was issued to them in accordance with the Hindu Marriage and Divorce Act. The couple thereafter cohabited in Nairobi, Kenya, as husband and wife. The couple was blessed with two issues – V M V and A M V.
2. The petition in this matter was filed in court on 15<sup>th</sup> January 2013. The petitioner accuses the respondent of desertion and cruelty. He is said to be in the habit of abandoning the petitioner and the children in Kenya as he makes extended visits to India which last up to three years. While on such visits he refuses to communicate with the petitioner, and does not support the family. The petitioner complains that the family of the respondent demands that she gives all her earnings to them and when she declines she is subjected to abuse. The respondent is said to endorse such demands and harassment. The family is said to have frequently threatened the petitioner with physically harming her. The petitioner also accuses the respondent of having failed to support the family financially, leaving the entire responsibility to the petitioner.
3. The petition was served on the respondent on 5<sup>th</sup> June 2013 by courier service and on 26<sup>th</sup> April by advertisement in the *K M D* newspaper of India. There is an affidavit of service to evidence the same. He did not appear nor file answer to the divorce petition. On 27<sup>th</sup> June 2013 the Deputy Registrar certified that the matter proceeds for hearing as an undefended cause. As there is no reply, the petitioner's allegations, as made in the petition, remain uncontroverted.
4. The petitioner testified on 19<sup>th</sup> September 2013 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.
5. It would appear to me that the marriage between the parties herein has irretrievably broken down. It would also appear to me that there has been no collusion between the petitioner and the respondent in the bringing of these proceedings. There is also no evidence that the petitioner has condoned the adultery.
6. I hereby dissolve the marriage celebrated between the petitioner and respondent on 23<sup>rd</sup> August 1998. Decree *nisi* shall issue forthwith and shall be made absolute after thirty (30) days. Custody of the children of the marriage is hereby granted to the petitioner. Orders for the maintenance of the children shall be sought at the Children Court. There will be no orders as to costs.

**DATED, SIGNED and DELIVERED at NAIROBI this 14<sup>th</sup> DAY OF March, 2014.**

**W. MUSYOKA**

**JUDGE**