

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

DIVORCE CAUSE NO. 140 OF 2012

BETWEEN

L A A.....PETITIONER

AND

E M N.....RESPONDENT

JUDGEMENT

1. Marriage was celebrated between the parties herein on 25th July 2009 at the Jockey Club in Nairobi. A certificate of marriage serial number *[particulars withheld]* was issued to them in accordance with the Marriage Act, Cap 150, Laws of Kenya. The couple thereafter cohabited in Nairobi, Kenya, as husband and wife. The couple was blessed with one issue – W A M, born on 25th July 2008.
2. The petition in this matter was filed in court on 3rd August 2012. The petitioner accuses the respondent of cruelty. He is said to have suddenly and without cause deserted the petitioner and the child on 27th September 2009. He has not come back to the petitioner since. As a consequence, he has failed to provide for the family, has denied the petitioner her conjugal rights and is in the process of committing adultery with other women.
3. The petition was served on the respondent on 25th September 2012. There is an affidavit of service to evidence the same. The respondent did not appear nor file answer to the divorce petition. On 6th 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 26th 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 desertion, cruelty and adultery.
6. I hereby dissolve the marriage celebrated between the petitioner and respondent on 25th July 2009. Decree *nisi* shall issue forthwith and shall be made absolute after thirty (30) days. Custody of the only child of the marriage is hereby granted to the petitioner. Orders for the maintenance of the child shall be sought at the Children Court. There will be no orders as to costs.

DATED, SIGNED and DELIVERED at NAIROBI this 14th DAY OF March, 2014.

W. MUSYOKA

JUDGE