

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

DIVORCE CAUSE NO. 203 OF 2012

R W K.....PETITIONER

VERSUS

E GRESPONDENT

JUDGEMENT

The Petitioner and the Respondent were on 5th August 2006 married in Marietta, Georgia, United States of America. After the celebration of the marriage, the Petitioner and the Respondent cohabited together as husband and wife in Marietta, Georgia, United States of America. They later settled in Nairobi, Kenya. This court therefore assumes jurisdiction on the basis of the domicile of the parties to this petition for divorce. The marriage has been blessed with one (1) child. According to the Petitioner, since the celebration of the marriage, the Respondent has treated her with cruelty. In summary, she complained that the Respondent was a difficult person. She deponed inter alia, that the Respondent was stubborn, selfish, exhibited violent tendencies towards her and had neglected his duty as a husband and father. She accused the Respondent of desertion. The Petitioner averred that the Respondent deserted the matrimonial home in November, 2010 and has since abandoned the Petitioner and the child of the marriage. She further accused the Respondent of committing adultery with one Caroline. The Petitioner was of the opinion that the Respondent's behaviour had caused her to suffer mental distress and anguish which could only be remedied by this court granting her petition for divorce. She therefore urged the court to dissolve her marriage to the Respondent and also grant her custody of the child of the marriage.

The Respondent was served with the summons to enter appearance together with a copy of the petition for divorce. The Respondent did not enter appearance. He did not therefore file any papers in opposition to the petition for divorce. The Deputy Registrar of this court issued a certificate certifying this cause as suitable to be heard as an undefended divorce cause. During the hearing of the petition, this court heard oral evidence adduced by the Petitioner. She essentially reiterated the contents of her petition for divorce. She told the court that all attempts at reconciliation had failed. This court has carefully considered the facts of this divorce cause. It was clear from the evidence adduced by the Petitioner that the marriage between the Petitioner and the Respondent had irretrievably broken down. It is apparent to the court that the Petitioner feels mistreated. The incidence of cruelty and adultery narrated by the Petitioner, taken in totality, established to the required standard of proof on a balance of probability the matrimonial offence of cruelty. She has been separated from the Respondent for a period of four (4) years. This court will therefore grant the petition for divorce

In the premises therefore, the marriage between the Petitioner and the Respondent which was celebrated on 5th August 2006 at Marietta, Georgia, United States of America is hereby dissolved. Decree nisi dissolving the said marriage is hereby issued. The decree nisi shall be made absolute thirty (30) days from the date of this judgment. The issue of the custody of the children of the marriage shall be determined by the children's court. There shall be no orders as to costs. It is so ordered.

DATED AT NAIROBI THIS 10TH DAY OF MARCH, 2014

L. KIMARU

JUDGE