

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

DIVORCE CAUSE NO. 96 OF 2012

S A O.....PETITIONER

VERSUS

G S.....RESPONDENT

J U D G M E N T

The Petitioner and the Respondent were on 24th November 2006 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 was blessed with one (1) issue. The Petitioner has another child from a previous relationship. According to the Petitioner, since the celebration of the said marriage, the Respondent had treated her with cruelty. She sets out the particulars of cruelty in her petition for divorce. In particular, she alleged that the Respondent is a drunkard and has exhibited violent tendencies towards her. He had also caused mental anguish to the Petitioner. Because of the above behaviour, the Petitioner was forced to leave the matrimonial home in 2011. They have been separated since then. The Petitioner avers that she has lost love towards the Respondent due to his cruelty. It is for these reasons that the Petitioner formed the view that her marriage to the Respondent had irretrievably broken down with no possibility of salvage. The Petitioner therefore urged the court to grant her petition for divorce. She also prayed to be awarded costs of the petition.

When the Respondent was served, he entered appearance. He filed an answer to the petition. He denied that he had been cruel to the Petitioner as alleged in the Petitioner's petition. He put the Petitioner to strict proof thereof. He averred that that it was the Petitioner that deserted the matrimonial home which led to the breakdown of the marriage. He therefore urged the court to dismiss the Petition with costs.

During the hearing of the case, this court heard oral evidence adduced by the Petitioner. She essentially reiterated the contents of her petition for divorce. She told the court that during the subsistence of the marriage, the Respondent was a drunkard. She testified that the Respondent was verbally and physically abusive towards her and in particular, that he physically assaulted her in 2010 whereupon she decided to leave the matrimonial home. She told the court that they have been separated since then. 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 Petitioner has lost interest in the marriage. In the premises therefore, this court has no option but to grant her petition for divorce.

In the premises therefore, the marriage celebrated on 24th November 2006 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 17TH DAY OF MARCH, 2014.

L. KIMARU

JUDGE