

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

MILIMANI LAW COURTS

FAMILY DIVISION

Divorce Cause No. 62 Of 2014

A O O.....PETITIONER

VERSUS

W W M.....RESPONDENT

JUDGMENT

1. The petitioner and the respondent got married on 24th April 2008 at the office of the Registrar of Marriages in Nairobi. On 18th March 2014 the petitioner filed this petition seeking the dissolution of the marriage on the grounds of adultery and cruelty. On 4th April 2014, the respondent filed answer to the petition. She cross petitioned for divorce on the ground of adultery and cruelty. Each side pleaded that the marriage has irretrievably broken down.
2. The respondent was served to attend the hearing of the petition but did not come. The petitioner's evidence was not challenged. He told the Court that the marriage was on 14th May 2008 blessed with a son H O O. The family set up a matrimonial home at [particulars withheld] in Nairobi. In 2011, the court heard, the respondent confessed on Classic FM station that she had slept with another man in Rwanda. In 2012 the respondent had a relationship with one M O and they sent each other nude photographs (A005 and A006). In 2013 she had a relationship with a man called R with whom she had various conversations proving intimacy (A009). The petitioner made references to other relationships, including one with their neighbour S (A004).
3. On cruelty, his evidence was that she did not like his relatives whom she abused and threw out of the house. She refused to participate in paying rent and fees, and buying food, or participating in general upkeep. Yet she was working. She has since moved to the USA. He asked for divorce and custody of the child with whom he stays. He sought the dismissal of the cross-petition with costs.
4. I accept the petitioner's evidence and find that the respondent was guilty of adultery and cruelty. I also find that the marriage between the petitioner and the respondent has irretrievably broken down. I order the dissolution of the marriage and direct that *decree nisi* does issue. The same shall become absolute after 30 days. The petitioner shall have the custody of the son H O O. The respondent shall have reasonable access to the child. Costs shall be paid by the respondent. The cross-petition is dismissed with costs.

DATED and DELIVERED at NAIROBI this 6th October 2014.

A.O. MUCHELULE

JUDGE