



REPUBLIC OF KENYA

High Court at Nairobi (Nairobi Law Courts)

Divorce Cause 142 of 2012

S.A.O.....PETITIONER

AND

J.O.....RESPONDENT

JUDGEMENT

The petitioner in this matter married the respondent in 1993 under Luo Customary Law. She later solemnised the marriage in a ceremony at the Registrar's Office in the Nairobi District of the Nairobi Province of Kenya on 6th February 1996. The ceremony was conducted under the Marriage Act, Chapter 150, Laws of Kenya. A certificate of marriage was duly issued, copy of which is attached to the petition filed in court in this cause. The couple resided in B[...] and U[...] in Nairobi. There are two issues of the marriage – W.A.O and H.O.O.

The petition herein was filed in court on 7th August 2012. In it the petitioner alleges that the respondent has committed acts of cruelty. She has particularised the allegations in the petition. The petition was served on the respondent on 22nd August 2012. There is an affidavit of service on record filed in court on 3rd September 2012. The respondent did not respond and therefore the cause was cleared by the Deputy Registrar on 6th December 2012 to proceed as an undefended cause.

The petitioner testified on 24th January 2013. She stated that she was a civil servant working in the Prime Minister's office. She gave the main reason for seeking divorce was cruelty from the respondent. She alleged that the respondent changed in the course of the marriage, and began to come home late and to have lack of concern for the petitioner. She stated that when she asked the cause of this change, the respondent responded by beating her up. She narrated several incidents which demonstrated the cruel acts that the respondent meted on her. They ranged from physical beatings to meanness. The petitioner was eventually forced to leave the matrimonial home. She said that the respondent has since started living with another woman. She stated that she had not condoned the cruelty. She further mentioned that there are no chances of reconciliation. This evidence was uncontroverted.

It would appear to me that the marriage between the parties has irretrievably broken down. It would also appear to me that there has been no collusion between the petitioner and the respondent in bringing these proceedings. There is also no evidence that the petitioner has condoned the acts of cruelty. It would appear too that there has been no collusion between the petitioner and the respondent to bring these proceedings.

In view of the above, I am disposed to make the following orders:

- 1) That the marriage celebrated between the petitioner and respondent on 6th February 1996 is hereby dissolved;
- 2) That custody, care and control of the children of the marriage, that is to say – W.A.O and H.O.O – are granted to the petitioner;
- 3) That the respondent shall continue to meet the educational expenses of the said issues of the marriage until they complete their education;
- 4) That the decree *nisi* shall issue forthwith, to be made absolute after thirty (30) days;
- 5) That there will be no orders as to costs as the cause was undefended.

DATED, SIGNED and DELIVERED at NAIROBI this 2ND DAY OF May , 2013.

W.M. MUSYOKA

JUDGE