

**CORAM: HER WORSHIP AMA ADOMAKO-KWAKYE (MS.), MAGISTRATE,  
DISTRICT COURT '2', KANESHIE, SITTING AT THE FORMER STOOL LANDS  
BOUNDARIES SETTLEMENT COMMISSION OFFICES NEAR WORKERS'  
COLLEGE, ACCRA ON 17<sup>TH</sup> NOVEMBER, 2023.**

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**SUIT NO. A8/175/23**

**RITA NAA DEDEI ADITSOO LARKAI**

**H/NO. 209/1**

**NII SAHA STREET MAMPROBI**

**ACCRA**

**::**

**PETITIONER**

**VRS.**

**JACOB ALFRED NUNOO LARKAI**

**B926/11**

**BLACK NILE – ODORKOR OFFICIAL TOWN**

**ACCRA**

**::**

**RESPONDENT**

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**JUDGMENT**

The Petitioner commenced this Petition against the Respondent on 25<sup>th</sup> April 2023 praying for a dissolution of the marriage between her and the Respondent and for parties to bear their own cost. Per the Petition, the parties married on 6<sup>th</sup> December 2014 at the Royal House Chapel International, Accra. They have no child together. It is the Petitioner's case that the marriage between the parties has broken down beyond reconciliation and the parties have not lived together as husband and wife for the past four years.

In particularizing the facts grounding her assertion of a marital breakdown, the Petitioner averred that the Respondent had failed to perform his responsibilities throughout the marriage, failing to maintain the home and to pay utility bills. She averred that the Respondent lost his job two years after marriage but shortly thereafter, he secured another job but that too did not last for a year and he lost that job as well because he credited goods worth GH¢ 7,000.00 from his Managing Director which he failed to repay and the Petitioner had to pay it.

According to the Petition, the parties sought medical advice when several attempts for the parties to have a child was unsuccessful, although Petitioner has a daughter whom she had prior to marriage who is eleven years old. The Petitioner averred that the medical examinations revealed that the Respondent had Azoospermia and it was recommended that he adopts a child or go for a sperm donor but he declined both. Petitioner stated that notwithstanding the fact that she informed Respondent's father and siblings of the situation, none of them convinced the Respondent to consider the medical options, rather, Respondent's father blamed her for not giving him grandchildren and the pressure from him compelled her to leave the matrimonial home for some time in July 2019 to stay with her mother.

The Petitioner averred that she later rented an apartment, hopeful that the Respondent would change his attitude and choose one of the options given by the doctor for them to resume living together but this never happened. She stated that she received a call in November 2019 that the Respondent had left work unceremoniously and was been searched for. Later in the evening, she was told that he had been found and she was needed in the Northern Region where Respondent worked then. She stated that the Respondent's father and siblings refused to accompany her to the Northern Region so she went alone to find that Respondent had been admitted in the hospital for exhibiting

abnormal behaviour and being uncontrollable. She further stated that she brought the Respondent to Accra to the house of his siblings and father when he was discharged the next day and stayed with him for the night but she had to send him to the hospital the next day, where he was admitted and she was advised to send him to the psychiatric hospital since he was behaving aggressively.

According to the Petitioner, the Respondent was diagnosed of having bipolar disorder and given some medications upon discharge from the hospital which he took for some time but stopped taking them despite her advice. She stated that she had been falsely accused by Respondent's family as being the cause of Respondent's condition. She averred that she could not be expected to remain staying with Respondent when he was not ready to take medical advice in respect of them becoming parents and also when he had refused to take his medications especially when Respondent and his family were aware of Respondent's bipolar condition and had concealed same from her.

The Respondent opted to file no process in the suit although he was present in Court on all the dates the case was called.

The main issue for determination by this Court is whether or not the marriage between the Petitioner and the Respondent has broken down beyond reconciliation.

It is trite law that the sole ground for granting a petition for divorce is that a marriage has broken down beyond reconciliation as stated in **Section 1(2) of the Matrimonial Causes Act, 1971 (Act 367)**. The law under **Section 2(1) of Act 367** makes provision for six facts to prove the ground that the marriage has broken down beyond reconciliation. In proof of the fact that the marriage has broken down beyond reconciliation, the Petitioner has the burden to satisfy the court on at least one of the following facts: -

*(a) That the Respondent has committed adultery and that by reason of such adultery the Petitioner finds it intolerable to live with the Respondent; or*

*(b) That the Respondent has behaved in such a way that the Petitioner cannot reasonably be expected to live with the Respondent; or*

*(c) That the Respondent has deserted the Petitioner for a continuous period of at least two years immediately preceding the presentation of the petition; or*

*(d) That the parties to the marriage have not lived as man and wife for a continuous period of at least two years immediately preceding the presentation of the petition and the respondent consents to the grant of a decree of divorce; provided that such consent shall not be unreasonably withheld, and where the Court is satisfied that it has been so withheld, the Court may grant a petition for divorce under this paragraph notwithstanding the refusal; or*

*(e) That the parties to the marriage have not lived as man and wife for a continuous period of at least five years immediately preceding the presentation of the petition; or*

*(f) That the parties to the marriage have, after diligent effort, been unable to reconcile their differences.*

The Petitioner's evidence per her adopted witness statement filed on 10<sup>th</sup> July 2023 was essentially a repetition of her averments in her Petition on oath. As earlier stated, the Respondent did not react to any of the averments in the Petition by way of an Answer to debunk the allegations. In the absence of an Answer, it is presumed that the matters contained in the Petition are admitted by him. The law is that there is even no need for a Plaintiff [Petitioner] to call further or any evidence to prove allegations or assertions of fact in his/her claim where there is no joinder of issues. See the cases of **Fori v Ayerebi**

**[1966] 2 GLR 627; Total Ghana Ltd v Thompson [2011] 1 SCGLR 458; Air Namibia (Pty) Ltd v Micon Travel and Tours & Others [2015] 91 G.M.J. 173 @ 194.**

The Respondent did not challenge any of the factual matters which the Petitioner testified about. The evidence concerning the parties not having stayed together for about four years, Respondent's failure to take up his responsibilities and to maintain the home, his nonchalance to take steps for the parties to become parents and to manage his medical condition and his concealment of his medical condition from his wife, the Petitioner herein remained uncontroverted. I find that the Respondent has behaved unreasonably for which reason it would not be expected that the Petitioner lives with him.

The Respondent seems unbothered about raising a family with the Petitioner, which conduct has caused her much anguish. It appears from the conduct of the Respondent of failing to file any process and failing to cross examine the Petitioner that he is in agreement with the Petitioner's desire of having the marriage dissolved. The parties have been staying apart since July 2019 and there seems to be no indication of the parties resuming consortium at any time. The Court finds as a fact that the marriage between the parties has indeed broken down beyond reconciliation, entitling the Petitioner to the relief she seeks before this Court.

I therefore hold that the marriage celebrated between the parties on 6<sup>th</sup> December 2014 at the Royalhouse Chapel International, Accra is hereby dissolved. There shall be no order as to cost.

**[SGD]  
AMA ADOMAKO-KWAKYE (MS.)  
(MAGISTRATE)**

**Counsel**

Naa Djamah Ayikoi-Otoo, Esq. for the Petitioner.

No legal representation for the Respondent.