

IN THE DISTRICT COURT ONE, TEMA ON 31<sup>ST</sup> OCTOBER, 2023 BEFORE H/W  
NAOMI AKYIANO ESQ. (MS.), SITTING AS DISTRICT MAGISTRATE.

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A4/92/2022

**SELASI AGBOTTAH**

**PETITIONER**

**VRS.**

**EBENEZER NII TETTEH AKAMAH OKGNE**

**RESPONDENT**

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PETITIONER: PRESENT

RESPONDENT: ABSENT

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## **JUDGMENT**

This is a divorce petition between Selasi Agbottah, the Petitioner, and Ebenezer Nii Tetteh Akamah Okyne, the Respondent.

The parties are both Ghanaians and were lawfully married under Part Three of the Marriages Act, 1884-1985 (CAP 127) on 18<sup>th</sup> September, 2020 at Kpone Katamanso Municipal Assembly Marriage Registry. There are no issues to the marriage.

On 28<sup>th</sup> of April, 2022, the Petitioner prayed the Court for leave to file a divorce petition pursuant to Section 9 (2) of the Matrimonial Causes Act, 1971 (Act 367) which said application was granted by the Court. The Petitioner's only relief was that the marriage contracted on 18<sup>th</sup> September, 2020 be dissolved.

After several attempts to serve the Respondent had failed, the Court ordered for substituted service pursuant to order 4 rule 5 of C.I. 59, District Court Rules, 2009.

On 23<sup>rd</sup> September, 2022, the Respondent formally filed an answer also seeking the exact relief, the Petitioner declined to file any reply, and the Court ordered for Petitioner's witness statement to be filed and it was also served by substituted service and despite the affidavit of service indicating that the Respondent who resides and works in Berekum had been served electronically, he did not file any witness statement.

### **ISSUE**

The only issue for determination is whether or not the marriage contracted between the parties has broken down beyond reconciliation.

### **ANALYSIS AND APPLICATION OF THE LAW**

Section 1(2) of the Matrimonial Causes Act, 1971 (Act 367) provides:

The sole ground for granting a petition for divorce shall be that the marriage has broken down beyond reconciliation.

Section 2 (1) (a) to (f) of Act 367 provides facts for which the proof of the breakdown of marriages can be ascertained and the relevant section pertaining to this instant petition from the facts and evidence in this particular petition is reproduced below.

2 (1) (f)... that the parties to the marriage have after, diligent effort, been unable to reconcile their differences.

From the Petitioner's divorce petition and witness statement filed, the marriage was characterised by lots of problems and misunderstandings (paragraph 10 of witness statement) and interference from the Respondent's aunty, one Aunty Deede, and all attempts towards resolving the differences between them has proven futile (paragraph 22 of witness statement).

The claims by the Petitioner were not contended by the Respondent as he did not avail himself despite numerous notices to him and having regards to the answer filed by the Respondent, he willingly consents to the marriage being dissolved.

Under the circumstances, the Court finds that the parties are irreconcilable and therefore finds that the marriage has broken down beyond reconciliation.

Accordingly the marriage contracted between the parties on 18<sup>th</sup> September, 2022 at the Kpone Katamanso District Assemble is hereby dissolved. Certificate of marriage KKMA/307/2020 is cancelled . No orders as to costs.

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**H/W NAOMI AKYIANO ESQ. (MS.)**  
**DISTRICT COURT MAGISTRATE**