

**IN THE DISTRICT COURT HELD AT ABURI, EASTERN REGION ON
FRIDAY THE 8TH DAY OF MARCH 2024 BEFORE HER WORSHIP RHODA
K. DONKOR (MRS)**

COURT CASE NO: A4/01/2024

EMMANUEL OKYERE	PETITIONER
	VRS	
DORIS KUMI	RESPONDENT

JUDGEMENT

The Petitioner filed this petition against the Respondent praying for an order of the court for:

- (A) The Dissolution of his ordinance marriage with the Respondent.
- (B) Custody of the two children of the marriage with the Respondent to the Petitioner and reasonable access of the children to the Respondent.

The Petitioner and Respondent each testified and relied on their written witness statement as their Evidence in Chief to the court.

Petitioner’s case is that he got married to Respondent under the ordinance (**CAP 127**) on 1st day of September, 2016 and they co-habited in Aburi. There are two issues of the marriage aged 2 years and 3 years.

That there have not been peace in the marriage ever since they got married. Early 2023, the Respondent informed him that her brother who is in South Africa was making arrangements for her to travel abroad. That he welcomed the idea and told her to involve him in every stage of the process and arrangement. However, the Respondent refused and undertook the process without his knowledge and consent. He said one day he overheard the Respondent and her brother on phone making arrangement with the travel Agent for the Respondent to marry another man to enable her travel abroad. According to him, he did not react until Respondent father died and they went to the funeral and Respondent introduced her supposed husband to him as his rival and the man she intends to travel with abroad. He was shocked and felt cheated because he did not know the Respondent was to marry another man to enable

her travel. To Petitioner, the Respondent does not respect him or regard him as her husband and talk to him anyhow. He added that they are also not compactible. As a result of the Respondent's behavior, he instituted divorce proceedings at the Mampong District Court but the matter was withdrawn out of court by their families and the elders of their church for settlement. That Respondent has decided to abandoned him and their children to travel out of the Country with another man without his knowledge and consent. Which behavior he says has affected him emotionally. It is the Petitioner's further case therefore that, the marriage has broken down beyond reconciliation for the Respondent has behaved in such a way that he cannot reasonably be expected to live with her as husband and wife as it has caused him much pain, anxiety, distress and embarrassment.

The Respondent on her part confirmed the divorce proceedings against her in the Mampong District Court in 2022 but which matter was settled out of court by the Church and their families. She stated that she informed the Petitioner about her travel abroad and Petitioner agreed and told her to involve him in all arrangements concerning her travel, however they had a little misunderstanding and Petitioner decided not to be involved in the process again. On that she secured her passport and other travel documents without informing him. That the arrangement to marry the other man was part of the travel process but was not intended to end her marriage with the Petitioner.

Section 1(2) of the matrimonial causes Act, 1971 (Act 367) provides that the sole ground for granting a petition for divorce shall be that the marriage has broken down beyond reconciliation.

Section 2(1) of same Act states the facts constituting the breakdown of marriage beyond reconciliation.

The summary of the Petitioner's case is that the Respondent during the pendency of the marriage has made private arrangements to marry another man to travel abroad without his knowledge and consent and which behavior has caused him much pain, trauma, anxiety, fear, betrayal, distress and he cannot reasonably be expected to live with her as husband and wife.

Whether a Petitioner cannot reasonably be expected to live with the Respondent is a question of fact for the court to decide. Thus, the objective test is applied as was stated in the case of **Mensah V. Mensah (1972) 2 GLR 198**.

In Knudsen V. Knudsen (1976) 1 GLR 204, the court further stated that the behavior of a Party which will lead to this conclusion would range over a wide variety of acts. It may consist of one act if it is of sufficient gravity or series of acts of differing kinds

none of which by itself may justify a conclusion that the Person seeking the divorce cannot reasonably be expected to live with the spouse, but the cumulative effect of all taken together would do so.

It is clear on record that, in 2022 there was a divorce proceedings concerning this marriage in the District Court Mampong and subsequently this instant action and all attempts at reconciliation has proved futile. Following this, customary drinks has been presented to the Respondent family for divorce and same was accepted by the Respondent family.

CROSS EXAMINATION OF RESPONDENT BY PETITIONER

Q. In paragraph II of your witness statement, you said you discussed all details of your travel abroad with me, is that correct.

A. Yes initially.

Q. Did you tell me it involved marrying another man as part of the requirement for your travel abroad.

A. No, because I did not know it was part of the conditions as at that time.

Q. So why didn't you tell me when you got to know that it was part of the conditions for your travel abroad.

A. I did not tell you because as at that time, you told me that you did not want to be involved in the process again.

Q. And you were not bordered leaving your children and husband to travel abroad.

A. I was not bordered because I know the kind of Person you are and I trust you can take care of the children.

Q. Do you believe I have the ability to take care of the children.

A. Yes.

Considering all the circumstances constituting the behavior of the Respondent and the responses given in the cross examination, thus, for the Respondent to arrange to marry another man to travel abroad without the knowledge and consent of the Petitioner, it is unreasonable to expect a husband to live with a wife who has behaved in the manner described by Petitioner.

On the whole of the evidence adduced, the marriage between the Petitioner Respondent has broken down beyond reconciliation on the fact of unreasonable behavior on the part of the Respondent.

The marriage contracted between the Parties under the **Ordinance (CAP 127)** is hereby dissolved and the marriage certificate number MDC 14/17 dated 1st day of September 2016, with license number MDMC 25/17 is cancelled.

Custody of the two (2) children is granted to the Respondent with reasonable access to the Petitioner. However, Respondent will give custody of the two children to the Petitioner at any time she is to leave Ghana.

Petitioner to maintain the two children with GH¢500.00 a month effective 1st March 2024 and pay their School fees and hospital bills as and when they fall due.

(SGD)

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H/W RHODA K. DONKOR (MRS)
DISTRICT MAGISTRATE
8TH MARCH, 2024