

IN THE DISTRICT MAGISTRATE'S COURT HELD AT NSAWAM N.A.M.A ON 11TH OCTOBER, 2022 BEFORE HER WORSHIP SARAH NYARKOA NKANSAH MAGISTRATE

SUIT NO. A4/24/21

**PATRICIA OTTOPA-KISIEDU
OF UNNUMBERED HOUSE
KORLE ABANSO, KOFORIDUA**

PETITIONER

VRS

**FRANCIS DAWUTEY KUMAH
OF OBREGYIMA-NSAWAM**

RESPONDENT

PARTIES: PETITIONER PRESENT. RESPONDENT ABSENT.

**COUNSEL: JULIET KWABEA PEDISON ARYEE FOR PETITIONER PRESENT.
GEORGE AHADZIE FOR RESPONDENT PRESENT.**

JUDGEMENT

The Petitioner commenced this instant divorce petition praying the Court for the following reliefs as amended:

- a. The ordinance marriage celebrated on the 6th May, 2006 between the parties be dissolved.
- b. The Petitioner be granted custody of the issue of the marriage (Adjoa Asamakie Kumah) with reasonable access to Respondent.
- c. That Respondent be ordered to remit a monthly maintenance allowance of Eight Hundred Ghana Cedis (GH¢800.00) for the upkeep of the issue of the marriage

after the dissolution of the marriage. This said allowance be reviewed upwards by 20% annually.

- d. The Respondent be ordered to pay for all educational expenses of the issue of the marriage.
- e. That Respondent be ordered to pay for medical bills of the issue as and when they fall due.
- f. That the Respondent be ordered to rent a decent apartment of the Petitioner and the issue of the marriage until Petitioner remarries or the issue of the marriage attains majority which ever may come first.
- g. Cost including legal fees.

The Respondent Cross-Petitioned for the following;

- a. Dissolution of the marriage celebrated between the Petitioner and the Respondent if the Petitioner insists.
- b. The Respondent admits custody of the issue of the marriage to the Petitioner with reasonable access to him if the Petitioner insists on divorce.
- c. Monthly maintenance of Four Hundred Ghana Cedis (GH¢400.00) for the upkeep of the child by the Respondent proposed.
- d. Payment of all educational and medical bills of the child by the Respondent admitted.

- e. Provision of accommodation for the Petitioner and child by the Respondent for one year.
- f. An order for each party to her his or her own cost.

PETITIONER'S CASE

The Petitioner informed the Court, in her evidence that, she and the Respondent got married on the 6th of May, 2006 and cohabited for about a year after which Petitioner was transferred to Akim Oda and the Respondent to Ayirebi. The Petitioner mentioned that, there is one issue from the marriage named Adjoa Asamakie Kumah. Petitioner added that, both parties have not lived together as a couple for the past 2 years and all efforts by the family to resolve their differences have proved futile. The Petitioner concluded by saying that, the marriage has broken down beyond reconciliation.

The Petitioner closed her case without calling any witness.

RESPONDENT'S CASE

The Respondent informed the Court that, he has been married to the Petitioner under ordinance since 6th May 2006 with one issue Adjoa Asamakie Kumah and that Respondent and Petitioner both relocated to Ayirebi and Akim Oda respectively after

living together for a while. Respondent continued that, he has other children outside the marriage and that, Petitioner has been very difficult and wrongfully accuses him to the extent of always being suspicious of him. The Respondent also mentioned that, the Petitioner accuses him of being irresponsible even though he provides maintenance for the child. The Respondent averred that, he and the Petitioner have not lived together for the past nine months and all efforts by the family to settle their differences have been futile. The Respondent ended by saying that, the marriage has therefore broken down beyond reconciliation and same must be dissolved.

The Respondent closed his case without calling any witness.

In the circumstance the issue that falls for determination are:

a. Whether or not the marriage has broken down beyond reconciliation.

The law on dissolution of marriages is laid out in the Matrimonial Causes Act, 1971 (Act 367). Sections 1(2), 2(1)(b) and (3) of Act 367 provides as follows:

1. *"1(2) The sole ground for granting a petition for divorce shall be that the marriage has broken down beyond reconciliation.*

2. *2(1) For the purpose of showing that the marriage has broken down beyond reconciliation the Petitioner shall satisfy the Court of one or more of the following facts:- ...*
3. *(b) that the Respondent has behaved in a way that the petitioner cannot reasonably be expected to live with the Respondent;*
4. *(3) notwithstanding that the Court finds the existence of one or more of the facts specified in subsection (1), the Court shall not grant a petition for divorce unless it is satisfied, on all the evidence that the marriage has broken down beyond reconciliation."*

In the present case, the Respondent did not contest the Petition. In fact, Respondent also cross-petitioned.

Among other things, both parties have per their evidence told the Court that, the marriage has broken down beyond reconciliation. Petitioner at paragraph 10 of her witness statement stated thus;

"that our families have attempted to resolve and settle the issues between the Respondent and I but to no avail."

The Respondent also stated at paragraph 14 thus;

"the marriage has broken down beyond reconciliation and I pray to this Honourable Court to dissolve the Ordinance Marriage contracted between the Petitioner and I."

Further to this, Petitioner again stated in paragraph 11 as follows;

“that as couples we have not lived together as husband and wife for the past 2 years.”

Section 2(1)(c) of the Matrimonial Causes Act provides as follows;

that the Respondent has deserted the petitioner for a continuous period of at least two years immediately preceding the presentation of the petition;

The parties were referred to Court Connected ADR at the commencement of the case and parties successfully settled the ancillary reliefs as follows;

- a. The parties have agreed that the only child of the marriage, Adjoa Asamakie Kumah, should be in the Petitioner’s custody.*
- b. The Petitioner did not demand alimony.*
- c. The parties have agreed on a monthly maintenance allowance of GH¢800.00 with possible upward adjustments in future.*
- d. The Respondent has accepted to continue paying all educational and medical bills when they become due.*

- e. *The Respondent has agreed to continue paying rent for the child who is a minor and the mother.*

- f. *The parties have agreed on legal fees of GH¢3,000.00 to be paid on installment basis of GH¢1,000.00 a month beginning October ending to 31st December, 2021.*

- g. *The final dissolution order is however to be made by the Magistrate of the Court.*

The parties duly executed the terms of settlement and the Court shall adopt same as part of this judgement.

On the totality of the evidence adduced, I find that, the marriage has broken down beyond reconciliation. I accordingly enter judgment as follows.

- a. The marriage celebrated between the parties on 6th May, 2006 is hereby dissolved.

- b. The following Terms of settlement executed by Parties dated 28th September, 2021 is hereby adopted as the consent judgment of this Court.

- c. The parties have agreed that, the only child of the marriage, Adjoa Asamakie Kumah, should be in the Petitioner's custody.

- d. The Petitioner did not demand alimony.

- e. The parties have agreed on a monthly maintenance allowance of GH¢800.00 with possible upward adjustments in future.

- f. The Respondent has accepted to continue paying all educational and medical bills when they become due.

- g. The Respondent has agreed to continue paying rent for the child who is a minor and the mother.

- h. The parties have agreed on legal fees of GH¢3,000.00 to be paid on installment basis of GH¢1,000.00 a month beginning October ending to 31st December, 2021.

(SGD)
H/W SARAH NYARKOA NKANSAH
MAGISTRATE
11/10/2022