

**IN THE DISTRICT MAGISTRATE COURT HELD AT NEW TAFO-AKIM ON  
THURSDAY 08-06-2023 BEFORE HER WORSHIP JOSEPHINE SARFO (MRS.)**

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**SUIT NO: A4/12/23**

**CHARLOTTE SOMUAH  
AKYEM ASIAKWA**

**PETITIONER**

**VRS**

**ISAAC KYERE  
OLD TAFO-AKIM**

**RESPONDENT**

**PARTIES - PRESENT**

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**JUDGMENT**

**INTRODUCTION**

The Petitioner issued a Petition out of the registry of this honourable court on 17/03/23 seeking a dissolution of the marriage contracted between the parties on 26<sup>th</sup> September 2015 at the Presbyterian Church of Ghana, New Tafo-Akim

**PETITIONER'S CASE**

The Petitioner gave evidence herself per her Witness Statement filed on 17/05/23. The Petitioner testified that after the celebration of the marriage the parties cohabited at Asiakwa in the Eastern Region. The Petitioner stated that the Respondent has behaved unreasonably and thus she cannot be expected to live with him; two years into their marriage, the Respondent begun abusing her emotionally and would insult her on the slightest opportunity such that on one of such occasions, Respondent referred to her as a foolish woman from an illiterate background. All attempts to cause the Respondent to retract the said statement proved futile. Furthermore, the Respondent did not accord her respect and often disgraced her publicly at the slightest opportunity. According to the

Respondent, she reported the behaviour of the Respondent to her parents who attempted to convene a meeting with the Respondent's family to settle the misunderstanding between the parties but it never materialized. The Petitioner averred that without any justifiable reason the Respondent moved out of the matrimonial home on 17<sup>th</sup> August, 2019 and that since that time the parties have not had sexual intercourse and this has affected her greatly. That all attempts to reconcile their differences have proved futile.

### **RESPONDENT'S CASE**

It is the case of the Respondent that the parties got married in September 2015 at the Presbyterian Church of Ghana, New Tafo, having cohabited with the Petitioner for two years. That there are no issues to the marriage. The Respondent denied abusing the Petitioner emotionally and verbally abusing her in public. He moved out of the matrimonial home with his daughters after he had a little misunderstanding with the Petitioner to live at Old Tafo-Akim. According to the Respondent, he stopped having sexual intercourse with the Petitioner after he moved out of the matrimonial home.

### **EVIDENCE**

The Petitioner filed one witness statement. Respondent also filed one witness statement.

### **BURDEN OF PROOF**

Sections 10,11 and 14 of the Evidence Act, 1975 (NRCD 323) puts the burden of proof for the resolution of the issues on the Petitioner. A person who makes an averment or assertion has the burden to establish that his averment or assertion is true. He does not discharge this burden unless he leads admissible and credible evidence from which the

fact or facts he asserts can properly and safely be inferred. See **Majolagbe v Larbi & ORS [1959] GLR 190.**

The sole ground for granting a petition for divorce shall be that the marriage has broken down beyond reconciliation. **Under Section 2(1) of the Matrimonial Causes Act, 1971, (hereinafter called Act 367)** the Petitioner would have to satisfy the Court that the marriage has broken down beyond reconciliation. **Section 2 of Act 367** provides that, “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:

- a) That the respondent has committed adultery and that by reason of the adultery the Petitioner finds it intolerable to live with the Respondent;
- b) That the Respondent has behaved in a way that the Petitioner cannot reasonably be expected to live with the Respondent;
- c) That the Respondent has deserted the Petitioner for a continuous period of at least two years immediately preceding the presentation of the Petition;
- d) That the parties to the marriage have not lived as husband 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;
- 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;
- f) That the parties to the marriage have after diligent effort, been unable to reconcile their differences”.

From the pleadings and witness statement of the Petitioner, various allegations of unreasonable behavior, failure to live together as husband and wife and inability to

reconcile differences were made by the Petitioner. According to Section 2 of Act 367, a Petitioner may rely on the unreasonable behavior of the Respondent and the fact that the Petitioner cannot reasonably be expected to live with the Respondent to prove that the marriage has broken down beyond reconciliation. The Petitioner may also rely on the fact that the parties have after diligent effort, been unable to reconcile their differences to prove that the marriage has broken down beyond reconciliation.

I find from the evidence led before this Court that the marriage between the parties has broken down beyond reconciliation. I therefore decree that the marriage be dissolved. The marriage between the parties is hereby dissolved.

There will be no order as to cost.

**SGD**

**H/W JOSEPHINE SARFO (MRS.)**