



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NAIROBI**

**FAMILY DIVISION**

**DIVORCE CAUSE NO. 6 OF 2014**

**S A O.....PETITIONER**

**-VERSUS-**

**C O N.....RESPONDENT**

**JUDGEMENT**

1. By a divorce petition dated 15<sup>th</sup> January 2014, and filed in court on 16<sup>th</sup> January 2014, the petitioner seeks dissolution of the marriage between the parties and transfer of motor vehicle registration mark and number [*particulars withheld*] to her name .

2. The cause is founded on the ground of cruelty. The particulars of which are set out in paragraph 6 of the petition. It is alleged that the respondent has on several occasions assaulted the petitioner, with the petitioner suffering physical and psychological harm in the process forcing the petitioner to seek police assistance and medical care in hospitals. It is also averred that the respondent has insulted the petitioner by use of foul language in the presence of friends and relatives. It is said that the respondent is a drunkard who consumes too much alcohol hence rendering him unable to perform his marital obligations. He is accused of having slept out of the matrimonial home in lodgings in circumstances suggestive of adultery. He is said to have kept the company of prostitutes and on many occasions to have associated with women who were unknown to the petitioner in circumstances indicative of adulterous relationships both in and out of the matrimonial home and at times even brought the women to the matrimonial home, and on one occasion such a woman attacked the petitioner with a glass seriously hurting her. She pleads that it was on account of the cruel and dangerous conduct aforesaid that she, for the sake of her own sanity and health, was forced to leave the matrimonial home on 4<sup>th</sup> April 2011 and has stayed away to date.

3. I note from the records that despite being served, the respondent did not file an answer to petition nor cross-petition. The cause therefore proceeded undefended, and the petitioner gave her sworn testimony on 16<sup>th</sup> April 2015.

4. I find the petitioner's allegations against the respondent grave. Indeed, her evidence portrays the respondent as a callous spouse, who does not respect the petitioner and who is not ready to commit himself to the said marriage. The conduct of the respondent has no doubt inflicted on the petitioner mental cruelty and anguish. It is this cruel and degrading conduct that forced her to leave the matrimonial home on 4<sup>th</sup> April 2011. Clearly, there is nothing left in this marriage, and it would be in the best interests of both the petitioner and the respondent that the same is dissolved. I find that the marriage has irretrievably broken down, and both the petitioner and respondent cannot to live together as husband and wife in the circumstances. I am satisfied that the respondent's conduct has subjected the petitioner to such

anguish as constitutes cruelty.

5. In the end I am moved to make the following final orders:

- a. **That the marriage solemnized on 25<sup>th</sup> February 2005 at Nairobi District between C O N and S A O is hereby dissolved;**
- b. **That decree *nisi* shall issue forthwith, to be made absolute after thirty (30) days; and**
- c. **That there shall be no order as to costs.**

**DATED, SIGNED and DELIVERED at NAIROBI this 31<sup>ST</sup> DAY OF JULY, 2015**

**W. MUSYOKA**

**JUDGE**

**In the presence of Mrs. Mbaya advocate for the petitioner.**

**No appearance for the respondent.**