



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT NAIROBI**  
**DIVORCE CAUSE NO. 153 OF 2014**

**BETWEEN**  
**W A N.....PETITIONER**  
**AND**  
**J D O.....RESPONDENT**

**JUDGEMENT**

1. The Petitioner then a spinster and the Respondent then a bachelor were married on 8<sup>th</sup> August 1990 at the Registrar’s Office in Nairobi. A certificate of marriage serial Number [particulars withheld] was issued to them in accordance with the **Marriage Act (Cap 150 Laws of Kenya)**. The couple thereafter cohabited at [particulars withheld] until 10<sup>th</sup> June 2001 when the Petitioner and the children of the marriage were forced to leave the matrimonial home.

2. They are domiciled in Kenya and were blessed with four issues of the marriage as follows:

1. J A N aged 35 years old;
2. R A O aged 26 old;
3. W N O aged 23 years old; and
4. C A O aged 18 years old.

3. The Petition filed on 7<sup>th</sup> July 2014 is premised on grounds of cruelty and unfaithfulness of the Respondent as particularised in the Petition. The Petitioner stated that she and the Respondent cohabited for only 14 years after which she and the children of the marriage were forced out of their matrimonial house. The Petitioner states that the Respondent would utter abusive words against her such as ‘just the way you had invited yourself, walk out the same way’. The Respondent threatened the Petitioner with eviction by telling her, that he would sell the house they were living in.

4. In the particulars of cruelty the Petitioner further avers that, the Respondent told her that he was tired of her and would give her one year in which to look for a place where she could go and live together with the children. That on 10<sup>th</sup> March 2001, following daily verbal abuse and threats from the Respondent, she was forced to move out of the matrimonial bedroom hoping the abuse would cease but instead it continued. That without justifiable cause the Respondent forced the Petitioner out of the matrimonial

bedroom when she was pregnant with the second child. The Respondent would force their son, J to sleep in their matrimonial bed simply because he was not the Respondent's biological son which, according to the Petitioner is against Luo customary laws. The Respondent did not allow the Petitioner to get into his car and went to the extent of leaving her at the bus stop. That on various occasions the Respondent would give his car to a woman not known to the Petitioner. That on one occasion the Respondent slapped her in full view of their children and also tried to hit her with a stool. That she was rescued by the children's scream.

5. The Petitioner deponed that during the subsistence of their marriage, the Respondent was a habitual drunkard, and as a result of such drunkenness caused a lot of fear in her and the children. That during the subsistence of their marriage, the Respondent neglected his family, and left the Petitioner to attend all the children's functions alone. That the Respondent had formed a habit of sleeping out of the matrimonial home without any justifiable cause or explanation.

6. The Petition states that due to the aforesaid acts of cruelty and unfaithfulness the Petitioner strongly feels that they cannot continue to hold out as husband and wife with the Respondent. She, has therefore, asked the court to dissolve the marriage between her and the Respondent. She confirms that this Petition has not been presented or prosecuted in collusion with the Respondent, nor has she connived or condoned the acts of cruelty, and unfaithfulness complained of. She also certifies that there have been no previous proceedings filed regarding the marriage.

7. On 7<sup>th</sup> May, 2015 the Deputy Registrar certified that the matter was suitable to proceed for hearing as an undefended cause for one day in Nairobi. The Respondent was served with the process dated 7<sup>th</sup> April 2015 but did not file an answer to the Petition. At the hearing on 23<sup>rd</sup> July 2015, the Petitioner testified and reiterated what she had set out in the Petition. The Respondent did not attend court.

8. I have perused the grounds of the petition and the evidence of the Petitioner in the verifying affidavit sworn on 1<sup>st</sup> July 2014. From the foregoing it is evident that the marriage celebrated between the parties herein on 8<sup>th</sup> August 1990 has irretrievably broken down and cannot be salvaged. The parties have lived apart for the last fourteen years and there has been no meaningful attempt at reconciliation. In the premise I order as follows:

- a. That the marriage celebrated between the Petitioner and Respondent at the Registrar's office in Nairobi on 8<sup>th</sup> August 1990, is hereby dissolved.
- b. That Decree nisi dissolving the said marriage is hereby issued to be made absolute thirty (30) days from the date of this judgment.
- c. There shall be no orders as to costs.

**SIGNED DATED and DELIVERED** in open court this **31<sup>st</sup> day of July 2015.**

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**L. A. ACHODE**

**JUDGE**

**In the presence of .....Advocate for the Petitioner**

**In the presence of .....Advocate for the Respondent**