



**REPUBLIC OF KENYA**

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

**DIVORCE CAUSE NO. 178 OF 2012**

**BETWEEN**

**P K M.....PETITIONER**

**AND**

**B O O.....RESPONDENT**

**JUDGEMENT**

1. Marriage was celebrated between the parties herein on 6<sup>th</sup> May 1998 at the Office of Registrar of Marriage at Nairobi. A certificate of marriage serial number [*particulars withheld*] was issued to them in accordance with the Marriage Act. The couple thereafter cohabited at [*particulars withheld*] and [*particulars withheld*] in Nairobi as husband and wife. They were blessed with one issue – F M O – born on 25<sup>th</sup> January 1990.
2. The petition in this matter was filed on 1<sup>st</sup> October 2012. The petitioner has accused the respondent of cruelty and adultery. The respondent is alleged to have committed adultery with a woman, in the United States of America, who is named in the particulars, but who have not been made parties to the proceedings. As a consequence of the said adultery two children were born to the said woman. He is also alleged to have treated the petitioner cruelly when they were in the United States as he would spent nights away from her, and when confronted he would say he needed an able-bodied woman to have fun with, which caused much anguish to the petitioner who is physically challenged.
3. The petition was served on the respondent on 27<sup>th</sup> March 2013 by courier service via DHL. He did not appear nor file answer to the divorce petition. The Deputy Registrar certified on 11<sup>th</sup> July 2013 that the matter proceeds for hearing as an undefended cause. As there is no reply, the petitioner's allegations, as made in the petition, remain uncontroverted.
4. The petitioner testified on 21<sup>st</sup> August 2013 and gave vent to the allegations made in her petition. No counter evidence was given by the respondent, therefore the petitioner's story was not controverted.
5. It would appear to me that the marriage between the parties herein has irretrievably broken down. It would also appear to me that there has been no collusion between the petitioner and the respondent in the bringing of these proceedings. There is also no evidence that the petitioner has condoned the adultery.
6. I hereby dissolve the marriage celebrated between the petitioner and respondent on 6<sup>th</sup> May 1998. Decree *nisi* shall issue forthwith and shall be made absolute after thirty (30) days. There will be no orders on costs.

**DATED, SIGNED and DELIVERED at NAIROBI this 31<sup>st</sup> DAY OF January, 2014.**

**W. MUSYOKA**

**JUDGE**