



**REPUBLIC OF KENYA**

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

**DIVORCE CAUSE NO. 204 OF 2012**

**A K G.....PETITIONER**

**VERSUS**

**S K K.....RESPONDENT**

**JUDGEMENT**

The Petitioner and the Respondent were on 14<sup>th</sup> April 2001 married at the Vineyard Christian Fellowship Church in Nairobi. The marriage was celebrated under the **Marriage Act**. After the celebration of the marriage, the Petitioner and the Respondent cohabited together as husband and wife in various estates within the City of Nairobi, Kenya. The marriage has been blessed with three (3) issues born between 2003 and 2007. According to the Petitioner, since the celebration of the marriage, the same has not been a happy one. He complains that the Respondent has treated him with cruelty. He sets out the particulars of cruelty in his petition for divorce. In particular, he alleged that the Respondent had deserted the matrimonial home severally and had neglected her duty as a wife and mother. He accused the Respondent of stealing from him. He complained that the Respondent was a person of ungovernable temper and was rude towards him. She had also caused him to suffer mental anguish. For these reasons, the Petitioner was of the view that his marriage to the Respondent had irretrievably broken down with no possibility of salvage. He therefore asks the court to grant his petition for divorce, and grant him custody of the issues of the marriage.

The Respondent was duly served with the petition for divorce. She however did not enter appearance. Neither did she file papers in opposition to the petition. The Deputy Registrar of this court issued a certificate certifying that the proceedings herein continue as undefended divorce cause. At the hearing of the petition, this court heard oral evidence adduced by the Petitioner. In essence, the Petitioner reiterated the contents of his petition for divorce. He told the court that he has been miserable and urged the court to grant his petition for divorce. This court has carefully considered the facts of this divorce cause. It was clear from the evidence adduced by the Petitioner that the marriage between the Petitioner and the Respondent had indeed irretrievably broken down. This court holds that the Petitioner established the ground of cruelty in his petition for divorce to the required standard of proof on a balance of probabilities. His testimony was uncontroverted. This court will therefore grant the petition for divorce.

In the premises therefore, the marriage celebrated between the Petitioner and the Respondent on 14<sup>th</sup> April 2001 is hereby dissolved. Decree nisi dissolving the said marriage is hereby issued. The decree nisi shall be made absolute thirty (30) days from the date of this judgment. As regards the issue of the maintenance and custody of the children, the same shall be canvassed at the Children's court. It is that court which has jurisdiction in the first instance to consider such disputes. There shall be no orders as to costs. It is so ordered.

**DATED AT NAIROBI THIS 20<sup>TH</sup> DAY OF MARCH, 2014**

**L. KIMARU**

**JUDGE**