



**REPUBLIC OF KENYA**

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

**DIVORCE CAUSE NO. 151 OF 2013**

**BETWEEN**

**S A M.....PETITIONER**

**AND**

**K O.....RESPONDENT**

**JUDGEMENT**

1. Marriage was celebrated between the parties herein on 7<sup>th</sup> July 2006 at the District Commissioner's office in Homa Bay. A certificate of marriage serial number *[particulars withheld]* was issued to them in accordance with the Marriage Act. The couple thereafter cohabited at Awendo, Migori County, Kenya, as husband and wife. The couple was not blessed with issue.
2. The petition in this matter was filed in court on 31<sup>st</sup> July 2013. The petitioner accuses the respondent of adultery. The petitioner alleges that the parties separated sometime in October 2007 owing to the respondent's adulterous behaviour. The parties have been living apart since then, and the respondent has moved on with his life as he is currently in cohabitation with another woman.
3. The petition was served on the respondent on 20<sup>th</sup> August 2013 as per the affidavit of service on record sworn on 20<sup>th</sup> August 2013 by Charles Mutua Mwanza and filed in court on 18<sup>th</sup> November 2013. The respondent did not file answer to the divorce petition. On 27<sup>th</sup> February 2013, the Deputy Registrar certified 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 20<sup>th</sup> March 2014 and gave vent to the allegations made in her petition. No counter evidence was given by the respondent, and 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 7<sup>th</sup> July 2006. Decree *nisi* shall issue forthwith and shall be made absolute after thirty (30) days. There will be no orders as to costs.

**DATED, SIGNED and DELIVERED at NAIROBI this 25<sup>th</sup> DAY OF April, 2014.**

**W. MUSYOKA**

**JUDGE**

**In the presence of .....advocate for the applicant.**