



**REPUBLIC OF KENYA**

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

**DIVORCE CAUSE NO. 213 OF 2012**

**BETWEEN**

**B K S.....PETITIONER**

**AND**

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

**JUDGEMENT**

1. Marriage was celebrated between the parties herein on 10<sup>th</sup> February 1990 at the Pattni Brotherhood Hall, Nairobi, under the Hindu Marriage and Divorce Act, Cap. 157, Laws of Kenya. The marriage certificate issued serial number **[particulars withheld]** is attached to the petition. The couple thereafter cohabited at Parklands in Nairobi, Kenya, as husband and wife. The couple was blessed with issue – M S, who is now an adult.
2. The petition in this matter was filed in court on 4<sup>th</sup> November 2012. The petitioner accuses the respondent of cruelty. The particulars being that the respondent is contemptuous of the petitioner, disrespects her, neglectful, non-caring, verbally and physically abusive, and given to abusive and taunting language. The conduct of the respondent towards the petitioner and the child of the marriage forced the petitioner her own safety to move out of the matrimonial home.
3. The petition was served on the respondent on 7<sup>th</sup> December 2012, as evident from the affidavit of service sworn on 18<sup>th</sup> December 2012 by Tarcisio A Agunda. He did not enter appearance nor file an answer to the petition nor a cross-petition. On 11<sup>th</sup> July 2013 the matter was cleared by the registrar to proceed for hearing as an undefended cause.
4. As there is no reply to the petition, the petitioner's allegations, as made in the petition, remain uncontroverted.
5. 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.
6. 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 cruelty.
7. The orders that I am disposed to make are as follows:-
  - a. That I hereby dissolve the marriage celebrated between the petitioner and respondent on 10<sup>th</sup> February 1990;
  - b. Decree *nisi* shall issue forthwith, and may be made absolute after thirty (30) days.
  - c. There will be no orders as to costs.

**SIGNED DATED and DELIVERED in open court this 30<sup>th</sup> day of May 2014.**

**W. MUSYOKA**

**JUDGE**

**In the presence of Mr. Saini advocate for the petitioner.**