



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT MOMBASA**

**DIVORCE CAUSE NO. 73 OF 2013**

J K D.....PETITIONER

VERSUS

M D.....RESPONDENT

**JUDGMENT**

The petitioner **J K D** has filed this petition seeking the dissolution of her marriage to the respondent **M D**. The respondent who was duly served with both the petition as well as a summons to enter appearance failed to enter appearance and also failed to file any Answer to the Petition. The matter therefore proceeded as an undefended cause.

In her evidence the petitioner told the court that she and the respondent got married to each other on 24<sup>th</sup> March, 2011 at the Bahari Beach Hotel in Mombasa. The annexed marriage certificate serial number 171907 is proof of the marriage. Following the wedding the couple moved to live in Dubai where the respondent worked as a Medical Technologist. No children were born of the union.

The petitioner accuses the respondent of adultery. She states that she became aware that the respondent fathered a child with an Ethiopian lady. When the petitioner asked him about it the respondent beat her up and she became unconscious. The petitioner also claims that the respondent cancelled her resident's status in Dubai so she could no longer work there. She had no option but to return to Kenya. Despite the fact that the respondent travels to Mombasa for work he makes no effort to see or communicate with the petitioner. Thus the petitioner seeks this divorce.

As stated earlier the respondent though duly served made no reply to the petition. As it is the averments in the petition and the evidence of the petitioner remain unchallenged. As court I have no reason to doubt the veracity of the petitioner. The fact of impregnating another woman is clear evidence of adultery. The petitioner claimed that the respondent's actions caused her severe emotional distress leading to depression. A letter dated 18<sup>th</sup> September, 2013 from Dr. C. M. Mwang'ombe, a consultant psychiatrist who was treating the petitioner confirms this. The respondent's actions do clearly amount to cruelty. I therefore find that the grounds of adultery have been proved. I allow this petition for divorce. Decree nisi to issue to be made absolute

within three (3) months of today's date. No order on costs.

**Dated and delivered in Mombasa this 23<sup>rd</sup> day of July, 2014.**

**M. ODERO**

**JUDGE**

In the presence of:

Ms. Kiso for Petitioner

Court Clerk Mutisya