



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT MOMBASA**

**DIVORCE CAUSE NO. 6 OF 2014**

G K N.....PETITIONER

VERSUS

F O O.....RESPONDENT

**JUDGMENT**

The petitioner **G K N** filed in court this petition dated 23<sup>rd</sup> January, 2014 seeking the dissolution of her marriage to the respondent **F O O**. The respondent despite having been served with a summons to enter appearance as well as the petition failed to put in any appearance. The matter proceeded as an undefended cause.

The petitioner testified in court on 23<sup>rd</sup> June, 2014. She told the court that she and the respondent got married on 25<sup>th</sup> February, 2009 at the Crossroads Fellowship Church in Mombasa. The marriage certificate serial number XXXXX is sufficient proof of the fact of the marriage. Following their wedding the couple first lived in Bamburi and later moved to Bombolulu. Their union was not blessed with any child. The petitioner told the court that they only cohabited for eight (8) months. Her failure to conceive was a sore point. She testifies that the respondent assaulted her on 3<sup>rd</sup> December, 2009. She reported the incident at Nyali police station. This is evidenced by the OB entry No. 68 which was produced as an exhibit **Pexb3**. The petitioner has also produced a medical report as proof of the fact that she was assaulted on the material day **Pexb2**. The petitioner states that she left the matrimonial home and returned to her parents' home due to fears for her safety. The respondent thereafter sent her threatening messages. She made another report to police vide OB No. 70 of 16<sup>th</sup> December, 2010. The petitioner states that all attempts to reconcile them have failed. She now seeks a divorce.

Section 66(2) of the Marriage Act, 2014 provides for the grounds for the dissolution of a civil marriage. One of the cited grounds is cruelty. By assaulting the petitioner the respondent committed an act of cruelty. The evidence tendered by the petitioner has not been challenged and/or controverted by the respondent. I have no reason to doubt the veracity of her testimony. I note that the couple only lived together for eight (8) months after which they parted way. Their union was brief and troubled probably due to inability of the petitioner to conceive amongst other reasons. It is clear that the marriage though brief has now broken down. I do hereby grant orders for divorce as prayed. Decree nisi to issue to be made absolute within three (3) months. No order on costs.

**Dated and delivered in Mombasa this 1<sup>st</sup> day of August, 2014.**

**M. ODERO**

**JUDGE**

In the presence of:

Ms. Fwayo for Petitioner

Court Clerk Mutisya