



**REPUBLIC OF KENYA**

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

**MILIMANI LAW COURTS**

**FAMILY DIVISION**

**DIVORCE CAUSE NO. 133 OF 2014**

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

**VERSUS**

**C N M..... RESPONDENT**

**JUDGMENT**

1. The petitioner and the respondent got married on 3<sup>rd</sup> June 2006 under the **Marriage Act (Cap 150)** at St. Clare Catholic Parish in Nairobi. The couple lived and cohabited at Rongai and later at Kinoo. The marriage was blessed with three children as follows:
  - a. D M M born on 11<sup>th</sup> August 2006;
  - b. A M M born on 29<sup>th</sup> July 2010; and
  - c. B M M N born on 25<sup>th</sup> January 2012.
2. The petitioner filed this petition on 13<sup>th</sup> June 2014 seeking the dissolution of the marriage, and costs. She gave evidence in support of the petition. The respondent did not respond to the petition, and therefore the Petitioner's evidence was not challenged. Her testimony was that she left the matrimonial home on 29<sup>th</sup> February 2012 following the delivery of her last born through Caesarean Section when she came home to find their landlord had issued an eviction notice and the Respondent had refused to provide for them. The house was without water or electricity. The Respondent was not talking to her and was violent. He was openly saying that he wanted nothing to do with her and the children. On top of this, the Respondent was having a relationship with a male man called S with whom he was spending most of the time. He referred to him as his "honey". At the same time he was having an affair with a certain lady with whom he was cohabiting. The two have since got a child out of this relationship.
3. I find that the respondent was cruel to the petitioner and also lived an adulterous life during the marriage. On the two grounds I order the dissolution of the marriage. *Decree Nisi* shall issue and the same shall become absolute after 30 days.
4. The Petitioner stays with the children who she solely cares for. I order that she gets custody of the children. Costs shall follow the event.

**DATED and DELIVERED at NAIROBI this 27<sup>th</sup> November 2014.**

**A.O. MUCHELULE**

**JUDGE**

