



**REPUBLIC OF KENYA**

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

**FAMILY DIVISION**

**DIVORCE CAUSE NO. 182 OF 2012**

**E M N.....PETITIONER/APPLICANT**

**VERSUS**

**A M M.....RESPONDENT**

**JUDGMENT**

1. The petitioner and the respondent got married on 30<sup>th</sup> March 2005 at the Registrar of Marriages in Nairobi. They set up a matrimonial home in Langata Estate in Nairobi. The marriage was blessed with a son P M who was born on 6<sup>th</sup> May 2005. On 4<sup>th</sup> October 2012 the petitioner filed this petition seeking the dissolution of the marriage and custody of the child. The petition was grounded on cruelty on the part of the respondent. She claimed that the marriage has irretrievably broken down.
2. The respondent opposed the petition, and also cross-petitioned for divorce on the ground of cruelty on the part of the petitioner. He also alleged that the petitioner had deserted the matrimonial home. He sought an order that custody of the child be shared.
3. When the matter came for hearing, the petitioner was represented by MR KIMANI and the respondent by M/S MOCHAMA. The petitioner gave evidence and was cross-examined but the respondent did not offer any evidence.
4. The petitioner's evidence was that the parties have lived apart since April 2011. She stated that the respondent was abusive and made requests for unnatural acts with her. He threatened to marry another wife if she did not allow for such acts. She sought the assistance of her father-in-law but the respondent was unwilling to engage in any discussion. According to her, the marriage has broken down beyond repair. I find that the evidence was not materially challenged and accept it. I find that the marriage between the petitioner and the respondent cannot be retrieved and order its dissolution. *Decree nisi* shall issue immediately, and shall become absolute within 30 days.
5. On 30<sup>th</sup> October 2014 the parties signed a settlement to equally share the custody of the child. They agreed that each shall have equal visitation rights. The respondent shall be responsible for the education of the child and pay Kshs.5,000/= monthly towards its upkeep. The agreement shall form part of this judgment and its contents shall henceforth bind the parties. I make no order as to costs.

**DATED and DELIVERED at NAIROBI this 21<sup>st</sup> November 2014**

**A.O. MUCHELULE**

**JUDGE**