



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT MOMBASA**

**DIVORCE CAUSE NO. 9 OF 2013**

R N N.....PETITIONER

VERSUS

S N W.....RESPONDENT

**JUDGMENT**

The petitioner **R N N** filed this petition on 22<sup>nd</sup> February, 2013 seeking the dissolution of her marriage to the respondent **S N W**. The respondent filed an ‘*Answer to Petition and Cross-Petition*’ dated 1<sup>st</sup> July, 2013 in which he too sought for a dissolution of the marriage. The petitioner was heard on 22<sup>nd</sup> September, 2014. In her testimony the petitioner told the court that she and the respondent got married to each other on the 25<sup>th</sup> day of January, 1991 at the Office of the Registrar in Mombasa. A copy of their marriage certificate serial No. [Particulars Withheld] is proof of the marriage. The couple bore four (4) children together namely:

- A N
- T W
- B K
- I N

The petitioner told the court that the respondent assaulted her regularly and abused both herself and her children. She states that she had no peace during the marriage. The couple have lived separately for the past 12 years. The respondent who was present in court during the hearing opted to call no evidence in the matter.

Section 66(2) (e) of the Marriage Act, 2014 provides that a divorce may be granted where the marriage has been shown to have irretrievably broken down. Section 66(b) (d) of the same Act provides that a marriage will be deemed to have irretrievably broken down where:

**“(d) the spouses have been separated for at least two years, whether voluntary or by decree of the court.”**

In this case the couple have lived apart for 12 years. They even live in separate towns as the respondent is said to now reside in Naivasha. There is clearly no union between them. I have no doubt that the marriage has irretrievably broken down. I therefore allow this petition for divorce. Decree nisi to issue to be made absolute within three (3) months of today’s date. No orders on costs.

**Dated and Delivered in Mombasa this 18<sup>th</sup> day of December, 2014.**

**M. ODERO**

**JUDGE**

In the presence of:

No appearance by either party