



**REPUBLIC OF KENYA**

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

**DIVORCE CAUSE NO. 38 OF 2012**

**BETWEEN**

**B W W.....PETITIONER**

**AND**

**B O N.....RESPONDENT**

**JUDGEMENT**

The petitioner in this matter married the respondent on 29<sup>th</sup> August 2006 at a ceremony at a ceremony at the Attorney-General's Chambers in Nairobi. A certificate of marriage No. (withheld) was duly issued, copy of which is attached to the petition filed in court in this cause. The couple thereafter cohabited at (withheld). There are no issues of the marriage.

The petition herein was filed in court on 8<sup>th</sup> March 2012. In it the petitioner accuses the respondent of desertion and cruelty towards her. The respondent is said to have deserted the matrimonial home since 2008. During the period, the respondent is said to have had no interest at all towards the petitioner. The particulars of cruelty are itemised in the petition – neglect, lack of maintenance, ungovernable temper, threats to assault the petitioner and denial of conjugal rights.

The petition and the notice to appear were served on the respondent, on 6<sup>th</sup> August 2012. There is an affidavit of service on record filed in court on 3<sup>rd</sup> September 2012, as an annexure to the application for the Registrar's certificate. The respondent did not appear nor file an answer to the petition, and therefore the cause was cleared by the Deputy Registrar on 25<sup>th</sup> October 2012 to proceed as an undefended cause.

The petitioner testified on 18<sup>th</sup> April 2013. She complained that the respondent left the matrimonial home in 2006 and never came back. She contacted him but he never came back. He never explained why he left; his quitting meant that she was not able to enjoy conjugal connection with him. It later emerged that he had another family elsewhere. She mentioned the cruelty – verbal insults and the threats of a beating whenever she questioned him on his excessive drinking and being away most of the time. She also complained of lack of support and maintenance – when she lost her job, he was not there to provide for her and she had to seek solace at her mother's home. She said that communication has ended and for all practical purposes there is no marriage. All efforts to reconcile have failed. This evidence was not controverted.

It appears to me that the marriage between the parties has completely broken down. It would also appear to me that there has been no collusion between the petitioner and the respondent in bringing these proceedings. There is also no evidence that the petitioner has condoned the cruelty and desertion.

I will allow the petition dated 2<sup>nd</sup> March 2012. The marriage celebrated between the petitioner and respondent on 29<sup>th</sup> August 2006 is hereby dissolved. Decree *nisi* shall issue forthwith, to be made absolute after thirty (30) days. There will be no orders as to costs.

**DATED, SIGNED and DELIVERED AT NAIROBI THIS 27th DAY OF June 2013.**

**W.M. Musyoka**

**JUDGE**