



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI

DIVORCE CAUSE NO. 1 OF 2012

BETWEEN

V S P.....PETITIONER

AND

S D P.....RESPONDENT

JUDGEMENT

Marriage was celebrated between the parties herein on 15th December 1990 at the Shree Cutchi Leva Patel Samaj in Mombasa under the Hindu Marriage and Divorce Act. A certificate of marriage serial number (particular withheld) was issued to them in accordance with the Hindu Marriage and Divorce Act. The couple cohabited at Nakuru and Nairobi, as husband and wife. The couple were blessed with issue, J S P, born in 1992.

The petition in this matter was filed on 9th January 2012. The petition is for dissolution of marriage. The petitioner accuses the respondent of cruelty. She has listed several particulars to support the allegations of cruelty. The particulars range from lack of companionship, insensitivity, lack of communication and lack of love.

The petition and a notice to appear were served on the respondent on 8th March 2012, she did not appear nor file answer to the petition.

The Deputy Registrar certified the on 17th May 2012 that the matter proceeds for hearing as an undefended cause. The petition was heard on 4th October 2012 by Njagi J. Only the petitioner showed up and testified, the respondent did not attend court and neither did he testify. The petitioner testified on the grounds of cruelty. The petitioner's case is therefore uncontroverted.

It would appear to me from the papers filed in court and the oral evidence given in court on 4th October 2012 that the alleged marriage between the parties herein has totally broken down. It would also appear to me that the petitioner was not in any way contributory to the breakdown of the marriage.

I am satisfied that the marriage celebrated between the petitioner and the respondent has failed on account of cruelty by the respondent. I will therefore make the following orders

1. I decree the dissolution of the marriage celebrated between the petitioner and respondent on 15th December 1990.
2. Decree *nisi* shall issue forthwith and shall be made absolute after thirty (30) days.

3. Joint custody is granted of the child of the marriage to both parties.
4. The deed of settlement dated 15th december 2011 is hereby adopted as an order of the court with response to settlement of properties and maintenance of the child of the marriage.
5. There will be no orders on costs.

SIGNED DATED and DELIVERED in open court this **15th** day of **August, 2013**.

W.M. MUSYOKA

JUDGE