



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT NAIROBI**  
**DIVORCE CAUSE NO.112 OF 2007**

D.N.B.....  
.....PETITIONER

VERSUS

P.G.....  
RESPONDENT

**J U D G M E N T**

1. D. N. B., the Petitioner, by her Petition dated 3<sup>rd</sup> September 2007, seeks Orders that her marriage to the Respondent be dissolved on grounds of cruelty. The Particulars thereof are;

- “a) that since the celebration of the marriage the Respondent has on numerous occasions physically assaulted the Petitioner thereby occasioning her severe harm and bodily injuries.***
- b) That the Respondent physically assaulted the Petitioner sometimes in 1999 when she was expectant with her 2<sup>nd</sup> born child causing her to leave the matrimonial home for about 6 months.***
- c) That sometimes in the year 2000, the Respondent physically assaulted the Petitioner and later turned on the Petitioner’s sister when she tried to intervene thereby causing on the said sister a black eye and heavy nose bleeding.***
- d) That sometimes in the year 2001 when the parties herein were residing at K[...] estate Nairobi, the Respondent was physically assaulting S.G, their daughter, and when the Petitioner intervened, the Respondent roughed her up by beatings, humiliated her by insults in front of the Petitioner’s sister, children, neighbours, friends and threw her out of the matrimonial home for 2 weeks.***
- e) That sometimes in the year 2002, the Respondent once again physically assaulted the Respondent so badly that she had to go to seek refuge at her cousin’s place in H[...] Estate for around one month and only resumed cohabitation with the Respondent for the children’s sake.***
- f) That on numerous occasions between the year 2001 – 2003, the Respondent habitually slapped the Petitioner at any time for no good reasons and consistently threw food together with utensils at the Respondent thereby occasioning injuries upon her and damaging property.***
- g) That sometimes in the year 2003, the respondent verbally abused the Petitioner till late hours in the night, threatened to kill her, packed the Petitioner’s items in garbage bags, covered her face with a pillow and began to strangle her and only stopped when their first born began screaming.***
- h) That the Respondent has during the marriage been subjecting the Petitioner to strong, humiliating verbal abuse in public, at her place of work and in front of the children thus causing her embarrassment.***
- i) That the Respondent extended his verbal and physical abuse on the children of the marriage.***
- j) That the Respondent has been extremely brutal to S.G the first born of the marriage and he assaults her anytime without justification or reason.***

- k) *That on 2<sup>nd</sup> September 2005, the Respondent attacked the said S.G and beat her up using a belt, slapped her repeatedly on the face, kicked her with his feet and tore off her clothes thus occasioning on her physical injuries requiring medical treatment.*
- i) *That earlier in the year 2003, the Respondent beat up E.G the 2<sup>nd</sup> born, stripped him, rolled him in the grass while it was raining and tortured him in a military like manner leaving him seriously traumatized.*
- m) *That in the year 2006, the Respondent still physically abused the 2<sup>nd</sup> born using a lash and the boy had to be treated at St. James medical centre.*
- n) *That the Respondent has persistently failed to provide any adequate maintenance for the Petitioner and/or the three issues of the marriage.*
- o) *That the Respondent failed to pay rent for the years 1997 and 1998 and forcing the Petitioner to do so when the family was threatened with distress.”*

2. The Petitioner in evidence added that because of the Respondent’s actions aforesaid, she had to leave the matrimonial home for her safety and the Respondent has refused all attempts at reconciliation. That she has retained custody and care of the three (3) issues of their marriage and the Respondent ought to be ordered to pay maintenance to her.

3. The Respondent was served with the Petition but he did not respond to it neither did he attend the hearing of this Cause. The Petitioner’s allegations against him are therefore undefended and uncontested and I see no reason to disbelieve her. Where a spouse treats the other with cruelty then under **Section 8(i)** of the **Matrimonial Causes Act**, the other is entitled to a divorce.

4. The marriage between the Petitioner and Respondent has irretrievably broken down and must be dissolved.

5. As regards maintenance, the Petitioner has custody and care of the three (3) issues of the marriage and the issue was settled by the Children’s Court in Nairobi which sometime in 2008, according to the Petitioner, ordered to the Respondent pay Kshs.20,000/- per month as maintenance. The amount is reasonable and so, I shall order that the order of the Children’s Court shall also be the order in this Cause and the Respondent shall continue to pay Kshs.20,000/- as maintenance.

6. There shall issue forthwith a decree nisi to be made absolute in thirty (30) days and the order of maintenance as above shall take effect from the date of this judgment.

7. No order as to costs.

8. Orders accordingly.

**DATED, DELIVERED AND SIGNED AT NAIROBI THIS 20<sup>TH</sup> DAY OF JANUARY, 2012**  
**20/1/2012**

**CORAM:**

ISAAC LENAOLA – JUDGE

Miron – Court Clerk

No appearance for Parties

**BY COURT**

NOTICE has twice been given to Parties but none has appeared.

**ORDER**

Judgment is duly read.

**ISAAC LENAOLA**  
**JUDGE**