



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT NAIROBI**

**DIVORCE CAUSE NO.153 OF 2009**

**H.D.....PETITIONER**

**VERSUS**

**A.T.....RESPONDENT**

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

1. The Petition dated 12<sup>th</sup> October 2009 seeks Orders that the marriage between the Petitioner and the Respondent should be dissolved. The Petitioner also seeks orders that the custody, case and control of the issues of the marriage be granted to her.

2. There is no response to the Petition and the Petitioner's uncontested case is that her marriage to the Respondent has broken down irretrievably and there is no chance that it can be redeemed. It is her case that since their marriage was solemnized in the year 1995 in the USA, the Respondent has treated her with extreme cruelty and the particulars thereof are;

***“a) That throughout the subsistence of the marriage the Respondent has been rude and abusive to the Petitioner and has maintained an ungovernable temper thus causing tension in the home [and] causing her undue stress and trauma.***

***b) The Respondent has been brutally cold and aloof to the Petitioner in the last eight years of their marriage, he was not at all emotionally supportive to the Petitioner neither did he offer any love and affection as is expected thus causing the Petitioner to feel rejected and suffer psychological trauma.***

***c) The respondent has never bothered to assist the Petitioner in meeting the numerous needs of the home for over twelve (12) consecutive years now and never spends time with his family thus leaving the petitioner to struggle to meet the same alone causing her to suffer mental stress and anguish in struggling to do so resulting in high blood pressure. The petitioner has been the only providing financial stability to the family.***

***d) Throughout the subsistence of the marriage the Respondent has been drinking too much, coming home very late at night without prior notice to the Petitioner, and when asked gets angry and temperamental thus causing her to suffer untold mental stress and anguish. The Respondent on many occasions in front of family and friends has verbally insulted the Petitioner and has belittled the vow of marriage.***

***e) The Respondent has never provided financial support for his children; and in the last two (2) years he has not bothered to check their performance both at school and at home and barely spends enough time with them thus causing the Petitioner to suffer untold mental stress and anguish as she balances her work, home management and children's lives coined with school functions and everyday life while the Respondent lives a very aloof life. (sic)***

***f) The Respondent has throughout the marriage been absolutely unco-operative with the Petitioner, and has despised and/or undermined efforts by the Petitioner to sort out their problems through marital counseling thus causing the Petitioner to suffer shame, embarrassment, mental anguish and pain.***

***g) The petitioner has as a result of the above cruelty suffered anxiety, insomnia, low self-esteem, has lost a lot of weight and has lived a life of solitude without the expected love, affection and companionship expected from a husband in a marriage hence causing her great psychological stress.***

***h) That the Respondent has made no attempt at resolving, reconciling the marriage thus making the Petitioner feel unloved uncared for and emotionally devastated.”***

3. The Respondent is also said to have left the couple's residence in Nairobi five (5) years ago and has never provided for the family since.

4. It is also the Petitioner's case that the Respondent, a Professor of Philosophy was a heavy drinker and smoker, was not bothered with the welfare of his three children and was physically and emotionally detached from the Petitioner and the children.

5. I have read the Petition and the record of evidence of the Petitioner. The Respondent is obviously not interested in the proceedings hence his refusal to respond to the same.

6. I find no fault in the Petitioner's evidence and will order that the marriage between the parties be dissolved and the custody of the children of the marriage be granted to the Petitioner. The Respondent may have access to the children at such times on such periods as may be agreed with the Petitioner.

7. Since the Petition is undefended, I shall make no order as to costs.

8. The decree nisi shall issue forthwith and the same to be made absolute within thirty (30) days.

9. 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. None has appeared.

**ORDER**

Judgment is duly read.

**ISAAC LENAOLA**

**JUDGE**