



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI (MILIMANI LAW COURTS)
DIVORCE CAUSE 91 OF 2011

N.J.M.....PETITIONER

VERSUS

J.R.M.....RESPONDENT

JUDGEMENT

1. The petitioner herein **N.J.M.** a Kenyan, married the respondent **J.T.M.** also a Kenyan citizen on 6th June 2007 at Registrar of Marriages under the **Marriage Act (Chapter 150 of the Laws of Kenya)**.
2. The petitioner filed this petition, praying that her marriage to the respondent be dissolved, on the ground that the same has irrevocably broken down for reasons of persistent and severe cruelty as particularized in her affidavit in support of the petition.
3. The respondent was served with the petition at his place of work at {*particulars withheld*} Nairobi on 27th June 2011. He did not enter appearance or file any papers in response thereto. The petition therefore, proceeded undefended, wherein the petitioner testified orally and produced a copy of the marriage certificate issued by the Registrar of Marriages, Nairobi on 6th June 2007.
4. The particulars of the respondent's cruelty towards the petitioner, as stated in paragraph 7 of her petition are that:-
 - (a) ***During the month of October 2007 as a result of some argument between the petitioner and the respondent the respondent became extremely violent and physically assaulted the petitioner at the matrimonial home.***
 - (b) ***About the middle of the month of June 2008, one night the respondent came home unusually late and on being asked the reason for being so late, the respondent became extremely violent and physically assaulted the petitioner causing injury to her right arm which took several days to heal.***
 - (c) ***The respondent was often castigated and ridiculed for her cooking despite her best efforts to please the petitioner and comply with his culinary tastes.***
 - (d) ***The petitioner was often shouted at and assaulted physically by the respondent as a result of petty arguments.***

(e) The respondent's frequent temperamental outburst and violent behavior caused the petitioner considerable mental stress, anguish, fear, pain, misery and suffering which ultimately became so unbearable that the petitioner moved out of the matrimonial home on the 16th January 2011.

5. Because of the above cruelty meted out on the petitioner which she says she never condoned, the petitioner prays that the court finds that the marriage has irretrievably broken down and to decree that it be dissolved. She testified on oath that she has never filed any other proceedings in relation to the said marriage and has not colluded with the respondent in filing the present petition. She testified also that there are no issues of the marriage and that since being forced by the respondent's cruelty to leave the matrimonial home on 16th January 2011 the respondent has never approached her to seek reconciliation. On her part she would not wish to return to the respondent due to his hostile demeanor.

6. The respondent, having been served with the petition and neglecting to file a reply thereto is deemed to have conceded the grounds advanced therein. After due consideration of the facts as stated by the petitioner both in her sworn evidence and her supporting affidavit, I am satisfied that she has proved her case on the ground of cruelty under **Section 8 (c)** of the **Matrimonial Causes Act**. I therefore allow the petition and decree that the petitioner's marriage to the respondent be and is hereby dissolved. Accordingly a decree nisi shall issue forthwith.

7. Costs of the petitioner are awarded to the petitioner as prayed.

DATED, SIGNED and DELIVERED at NAIROBI this 28TH DAY OF JUNE, 2012.

M.G. MUGO

JUDGE

**In the presence of :
for the petitioner.**