



**REPUBLIC OF KENYA**

**High Court at Nairobi (Nairobi Law Courts)**

**Divorce Cause 159 of 2011**

**S.R.S.....PETITIONER**

**VERSUS**

**K.S. S.....RESPONDENT**

**JUDGMENT**

The Petition before the court is dated 29<sup>th</sup> September, 2011, and prays that the marriage between the Petitioner and the Respondent be dissolved. Although the Respondent entered appearance by way of a memorandum dated 25<sup>th</sup> October, 2011, she did not file an answer to the Petition or a Cross-Petition. The hearing of the matter, therefore, proceeded *ex parte*.

In his sworn testimony, the Petitioner testified that the Respondent was his wife and that the parties married on [particulars withheld]. He produced a copy of their marriage certificate as his exhibit No. 1. It was his further evidence that from the date of marriage, the couple resided at P[....], Nairobi, where they lived together normally for 2 ½ years. Thereafter, many disputes arose between them, and the Respondent moved out in March, 2011. Since leaving the matrimonial home, she has never come back.

At the centre of the couple's conflict was the issue of finances. The Petitioner accuses the Respondent of borrowing money from family and friends which would force the Petitioner to repay it thereby straining his resources. During the same period, the Respondent would invariably quarrel the Petitioner without reason, mistreated and abused him. She was very disrespectful of the Petitioner. Sometimes she would force the Petitioner to take her out for meals in restaurants as she did not want to cook. She didn't want to stay in the house.

The Petitioner made efforts to resolve the impasse but the Respondent never took the matter seriously. He involved his parents, his uncle and others but his efforts went begging. It was then that he decided to file this Petition as there was no possibility of reconciliation. The marriage had therefore irretrievably broken down. There were no children of the marriage, and he prayed for dissolution of the same. He averred that the Petition was not brought in collusion with the Respondent.

At the end of this evidence, Mr. Omondi for the Petitioner closed their case and did not wish to make any submissions. Arising from the Respondent's failure to file any response to the Petition, it is certain that she is altogether indifferent to this marriage. She won't care whether it is dissolved or not. Some of the accusations levelled at her are very serious. When she goes borrowing large sums of money from family and friends without informing the Petitioner, she creates the danger that the amount borrowed could possibly exceed the Petitioner's ability to repay, and this could easily drive the Petitioner into living in fear of bankruptcy. In general, the Petitioner's evidence paints the Respondent as an immature and uncaring spouse, a don't-care who does not respect the Petitioner and who is not ready to commit herself to the ideals of the institution of marriage. All this is bound to cause concern to the Petitioner, thereby inflicting upon him mental cruelty, which is a ground for divorce. It also leads to the irretrievable breakdown of the institution.

By reason of the foregoing, I am satisfied that the Petitioner has made out a case for divorce on the ground of mental cruelty, which is not contested. I accordingly make the following orders-

**(a) The marriage solemnized at the Registrar's Office in Nairobi on 9<sup>th</sup> July, 2008 between the**

**Petitioner and the Respondent herein is hereby dissolved**

**(b) Decree nisi to issue**

**(c) Decree nisi to be made absolute upon application by either spouse after sixty (60) days**

**(d) Each party to bear its own costs.**

**DATED and DELIVERED at NAIROBI this 27<sup>th</sup> day of July, 2012.**

**L. NJAGI  
JUDGE**