



**REPUBLIC OF KENYA**

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

**Divorce Cause 82 of 2012**

**NBA.....PETITIONER**

**- VERSUS -**

**PQN.....RESPONDENT**

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

1. The Petition dated **4<sup>th</sup> May 2012** seeks for orders that the marriage between the Petitioner and the Respondent be dissolved and that the Respondent do pay the costs of the Petition.

2. The Petitioner, then a bachelor married the Respondent then a Divorcee, on the **24<sup>th</sup>** day of **March 2004** under the **Marriage Act Cap 150** and solemnized at the Registrar's Office. The Petitioner and the Respondent both domiciled in the Republic of Kenya have co-habited at the S[.....] Road, Nairobi during the existence of their marriage.

3. The Petitioner and the Respondent have no issues of the marriage.

4. It is the Petitioner's case that during the existence of the marriage, the Respondent has treated him with cruelty and disrespect. The following is a summary of the particulars of cruelty as committed by the Respondent against the Petitioner:-

a) **The Respondent has behaved towards the Petitioner without respect and has caused the Petitioner embarrassment on several occasions.**

b) **The Respondent has denied the Petitioner conjugal rights on several occasions.**

c) **The Respondent has either allowed and/or condoned the abuse to the Petitioner by the Respondent's son from the previous marriage and the Respondent has stopped any form of discipline from the Petitioner to her said son.**

d) **The Respondent has treated the Petitioner without love and care and has made their communication impossible.**

5. The Petitioner avers that the marriage herein has irretrievably broken down and any attempts to salvage the same have been futile. The Petitioner further avers that he has not in any way been an accessory to or connived at or condoned the Respondent's acts of cruelty.

6. The Cause was undefended as the Respondent neither filed a Memorandum of Appearance nor did she file an answer to the Petition despite having been served with the said Petition

and Notice to appear.

7. The matter came up for hearing on 20<sup>th</sup> September 2012 with the Petitioner providing the sole testimony on his behalf. The Petitioner reiterated his case as stated in the Petition. He confirmed that he married the Respondent on 24<sup>th</sup> March 2004 and referred the court to the Marriage Certificate attached to his Petition. He also confirmed that they had no children.

8. It was the Petitioner's testimony that the marriage could not continue because of the cruelty. To this end he adopted the particulars of cruelty in his Petition. He testified that due to the cruelty, he had to move and stay with his mother. He averred that his wife had threatened him with a knife and that the wife was physically abusive. It was the Petitioner's case that there was no chance of making up their marriage and that it could not work. He also testified that they had no property together with the Respondent.

9. The Petitioner urged the Court to dissolve the marriage between him and the Respondent.

10. I have considered the Petition herein as well as the testimony given by the Petitioner. As earlier noted this cause is undefended. I make orders as follows:-

a) **The Petition is allowed and the marriage between the Petitioner and the Respondent is hereby dissolved.**

b) **Costs of this Petition and interest thereon shall be for the Petitioner.**

It is so ordered.

**DATED, READ AND DELIVERED AT NAIROBI**

**THIS 15<sup>TH</sup> DAY OF OCTOBER 2012**

**E. K. O. OGOLA**  
**JUDGE**

**Present:**

Mbaabu for Petitioner

Teresia – court clerk