



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT NAIROBI**

**DIVORCE CAUSE NO.132 OF 2008**

**M.N.N.N.....PETITIONER**

**VERSUS**

**P.M. N.....RESPONDENT**

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

The petitioner and the respondent were married on 28<sup>th</sup> January 1984. They were married at St.[....] Church, Nairobi under the **Marriage Act**. The petitioner and the respondent cohabited together as husband and wife in Kenya, the United States of America and in the United Kingdom. The marriage was blessed with two issues, born in 1985 and 1988 respectively. According to the petitioner, the respondent has been guilty of adultery during the subsistence of the marriage. The petitioner particularized the number of women that the respondent is alleged to have had adulterous liaisons with during various periods during the subsistence of their marriage. The petitioner averred that the respondent's adultery had caused her to suffer unbearable pain and agony. She further accused the respondent of committing acts of cruelty. In particular, she averred that the respondent has been guilty of willful neglect and failure to adequately provide for the family. She accused the respondent of failing to pay school fees for the children of the family and further failing to provide quality time to the family despite having a flexible work schedule. The petitioner stated that the respondent had deliberately sought employment away from the matrimonial home in order to avoid his marital responsibilities. In the premises therefore, the petitioner urged the court to grant her petition for divorce.

The respondent was served with a copy of the petition. He duly entered appearance but failed to file an answer to the petition despite being given an opportunity to do so by the court. The Deputy Registrar of this court certified the suit was ready for hearing as undefended divorce cause. This court was satisfied that the respondent was properly served. It directed the petitioner to proceed with the hearing of the petition, the absence of the respondent notwithstanding. In her testimony, the petitioner basically reiterated the contents of her petition for divorce. She testified that the respondent had engaged in adulterous liaisons with various women to an extent that she reached the decision that she could no longer stand it anymore. In her oral evidence, she stated that the respondent was careless in his relationships that even at one instance he brought home an undergarment of an unknown woman. From her evidence, it was clear to the court that although the petitioner had earlier tolerated the respondent's unfaithfulness, she had reached the end of the tether. This court holds that the petitioner established, to the required standard of proof on a balance of probabilities, that the respondent engaged in adulterous relationships during the subsistence of the marriage that was inimical to the health of his marriage to the petitioner. It was apparent that the marriage between the petitioner and the respondent had irretrievably broken down with no possibility of salvage.

In the premises therefore, the marriage solemnized between the petitioner and the respondent on 28<sup>th</sup> January 1984 at St. [.....]Church, Nairobi is hereby dissolved. *Decree nisi* dissolving the said marriage is hereby issued. The *decree nisi* shall be made absolute thirty (30) days from the date of this judgment. There shall be no orders as to costs.

**DATED AT NAIROBI THIS 1<sup>ST</sup> DAY OF APRIL, 2011**

**L. KIMARU**  
**JUDGE**