



**Y.H.....PETITIONER**

**VERSUS**

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

**JUDGMENT**

The parties to this cause married on 29<sup>th</sup> July 1994 at the Registrar of Marriages Office in Nairobi. They thereafter lived and cohabited in Nairobi in Kenya and in Ethiopia. They have not been blessed with a child.

In his petition for divorce, the Petitioner accused the Respondent of cruelty. He averred that since the celebration of their marriage the Respondent has shown willful neglect and utter contempt of their marriage; has been nagging him and always demanding for money; threatened to cause the Petitioner's deportation from Kenya; interfered with the Petitioner's business meeting; hidden the Petitioner's mobile phone and the car keys thereby causing him serious inconvenience and denied the Petitioner his conjugal rights by deserting matrimonial bedroom.

Upon being served the Respondent filed answer to petition in which she denied all the allegations of cruelty terming them vague and baseless. She averred that if anything it is the Petitioner who had been cruel to her by shouting at her, assaulting her, deserting the matrimonial home and living her without any means of support.

At the hearing the Petitioner testified that in the 1990s when they were living in Ethiopia, the Respondent used to shout at and call him maraya and dog and throw things around in the house. She refused to cook for him and whenever he went home late she quarreled him. He said the most embarrassing thing she did to him was forcing him to introduce her to a female client whom she thought he had an affair with. He eventually lost that client and the business. On several occasions he was forced to leave the matrimonial home and sleep elsewhere so that he could go to work the following day. In cross examination he denied being on the internet throughout and sparing no time for the Respondent.

On her part the Respondent denied the allegations of cruelty against her and reiterated the contents of her answer to the petition. She said she found out that the Respondent was communicating with other women on the internet and one of those women actually told her that the Petitioner wants to divorce her so that they can marry. Having been with her for all this while she said it is unfair for the Petitioner to leave her high and dry and get married to another woman. In the circumstances, even though they are no longer living together, she urged me to dismiss this petition with costs.

I have read the pleadings and considered the testimony tendered by both parties.

The Respondent herself admitted that their marriage has not been a happy one. She said because of his conduct of at times sleeping out of the matrimonial home, she had no alternative but suspect the Petitioner of extra marital activities.

Though I do not believe some of the Petitioner's evidence I am satisfied that the Respondent has been cruel to him by shouting at him and embarrassing him in public. The parties having not shared the matrimonial bed since 2004. I am satisfied that their marriage has irretrievably broken down. The Respondent's desire to keep it alive is meant to punish the Petitioner. That cannot be allowed. In the

circumstances I allow this petition and dissolve the marriage between the Petitioner and the Respondent. A decree nisi shall issue forthwith to be made absolute after 30 days. Each party shall bear its own costs.

**DATED and delivered this 13<sup>th</sup> day of July 2011.**

**D.K. MARAGA  
JUDGE**