



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT ELDORET**  
**Divorce Cause 1 of 2004**

**L.J.T.....PETITIONER**

**VERSUS**

**H.K.T.....RESPONDENT**

**D.L.....CO-RESPONDENT**

**JUDGEMENT**

The Petitioner filed the Petition dated 22<sup>nd</sup> March 2004 on 3<sup>rd</sup> April, 2008. It is based on the grounds of cruelty of the 1<sup>st</sup> Respondent to the Petitioner and the adultery of the 1<sup>st</sup> Respondent with the 2<sup>nd</sup> Respondent. The petitioner and the 1<sup>st</sup> Respondent married on 7<sup>th</sup> December, 1996 and thereafter cohabited in Nandi District. That is in the Petition and in the oral evidence of the Petitioner. There are no issues of the said marriage

The 1<sup>st</sup> Respondent filed what is headed as a Draft Answer to the petition and cross-petition in which he alleged desertion on the part of the Petitioner since 1999 and that the two have lived apart since then.

The 2<sup>nd</sup> Respondent filed nothing and like the 1<sup>st</sup> Respondent did not attend the hearing of the petition although served.

At the hearing the Petitioner testified that the 1<sup>st</sup> Respondent beat her on several occasions and brought the 2<sup>nd</sup> Respondent to the matrimonial home and slept with her on the matrimonial bed while the petitioner slept on a couch in the sitting room. It was the Petitioner's further evidence that the 1<sup>st</sup> Respondent has since the petitioner left the matrimonial home taken the 2<sup>nd</sup> Respondent and they cohabit together as a result of which two children, one called C, have been borne to both the 1<sup>st</sup> and 2<sup>nd</sup> Respondents. As earlier stated none of the Respondents attended court and so the Petitioner's evidence will stand uncontraverted. It was the Petitioner's evidence that the 1<sup>st</sup> Respondent does not want her and she therefore prays for the dissolution of the marriage between her and the 1<sup>st</sup> Respondent. In his draft answer and cross-petition the 1<sup>st</sup> Respondent on his part pleads that the marriage has irretrievably broken down and it is no longer possible for the two to live together again.

Upon considering the petition, the draft answer and cross-Petition and the evidence of the Petitioner, I find that the marriage has indeed irretrievably broken down and I do hereby dissolve the same and do condemn the 1<sup>st</sup> Respondent to costs.

**DATED AND DELIVERED AT ELDORET THIS 24<sup>TH</sup> DAY OF SEPTEMBER, 2008**

**P.M.MWILU**

**JUDGE**

**IN THE PRESENCE OF:-**

Mr. Koros Advocate for the Petitioner.