



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**  
**AT NAKURU**

**Divorce Cause 4 of 2007**

**J.M.W.....PETITIONER**

**VERSUS**

**L.W.G..... ..RESPONDENT**

**JUDGMENT**

This is a petition for divorce on the ground of cruelty. The particulars of cruelty are stated in paragraph 7 of the petition and will emerge in the course of this judgment. Upon being served with the petition and Notice to Appear, the Respondent never filed any answer to petition. After obtaining directions the Petitioner set this cause down for formal proof.

The facts of the case as stated in the petition and the Petitioner's testimony are that on 14<sup>th</sup> November 2003 the Petitioner then a widower married the Respondent at a civil marriage ceremony held at the Registrar of Marriages' office at Nairobi. Before that ceremony the parties had been living together as husband and wife since 1998 and had been blessed with one issue, J.M born on 2<sup>nd</sup> April 1999. After their marriage ceremony they lived and cohabited in Kinangop before the Petitioner was transferred to Embu District. He further testified that the Respondent has since their marriage treated the Petitioner with cruelty.

The Petitioner is a medical doctor. In his duties he invariably works late. In his testimony he stated that in the year 2000 whenever he worked late his wife accused him of having affairs with other women. One morning in September 2000 when he was going to a meeting in Nairobi the Respondent tore his shirt and viciously assaulted him alleging that he was going for a date and not for a meeting as he had informed her. She snatched the car keys from him and the Petitioner was forced to go to that meeting using public means. When he returned he took her with their son and her belongings to her parents' home. Due to their son's sickness and at the request of the Respondent's father he took her back.

In June 2001 when the Petitioner was in a meeting with the hospital superintendent at the District Hospital the Respondent stormed into his office and accused the matron of having an affair with him. As the Respondent was a nurse in the same hospital it became impossible to work with the matron and she had to be transferred. In October 2001 she once again stormed into the Petitioner's office with similar allegations of infidelity and assaulted a nurse who had gone to the Petitioner for assistance to relocate to South Africa where her husband was working. In May 2004 on returning home from a whole day's meeting at Watson Hotel at Embu the Respondent again viciously assaulted the Respondent. The Petitioner decided that he had had enough and separated with the Respondent. On 25<sup>th</sup> July 2004 the Petitioner returned home only to find his children from his earlier marriage crying. They told him that the Respondent had told them to go to where their late mother had gone. The children understood that to mean that the Respondent wished them death and that is why they were crying. That no doubt hurt the Petitioner also.

There are many other incidents of cruel treatment meted out by the Respondent to the Petitioner. For instance in the year 2002/2003 while he was dressing a friend who had an injury the Respondent alleged that the Petitioner had taken over that friend's wife. In 2004 she had chased the Petitioner's brother claiming that he was a glutton.

Having considered the Petitioner's evidence I find that he is a very patient man. Not many men can stand what he underwent for all those years. I have therefore no doubt in my mind that the Respondent has treated the Petitioner with extreme cruelty. The parties have now been separated since May 2004 and there is not much left of their marriage. It has irretrievably broken down. In the circumstances I grant this petition and declare that the marriage between the Petitioner and the Respondent is hereby dissolved. A decree nisi shall issue forthwith to be made absolute after the statutory period of six months.

**DATED and delivered at Nakuru this 10<sup>th</sup> day of December, 2008.**

**D. K. MARAGA**

**JUDGE**