



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT ELDORET**

**Divorce Cause 6 of 2006**

**JUDITH CHEPTOO ..... PETITIONER**

**VERSUS**

**KENNEDY KIPROP ..... RESPONDENT**

**R U L I N G**

The Petition herein was signed by the Petitioner though the Petition is said to have been drawn and filed by M/s. Chepkwony & Co. Advocates. The Respondent has filed objection to the appearance or representation by counsel for the Petitioner on the ground that no Notice of Appointment has been filed.

I have perused the Matrimonial Causes Act and Rules, and the same are silent as to whether a Petition must be signed by a Petitioner. In the Companies Act, Cap 486, a Petitioner in a Winding-Up Cause must sign the Petition under his own hand. This is specifically provided for.

In the absence of any provision I hold that a Petition signed by the Petitioner must be deemed to be one filed by the Petitioner. It is the person or advocate who draws and filed the Petition that must sign. A process cannot be drawn and filed by an Advocate and then it is signed by the client or party unless there is provision to that effect.

I therefore uphold the preliminary objection raised by Mr. Momanyi Counsel for the Respondent.

The Petitioner is of course at liberty to instruct and retain an Advocate in the prosecution of the petition. Costs of the objection to the Respondent.

DATED AND DELIVERED AT ELDORET ON THIS 16<sup>TH</sup> MARCH, 2007.

M. K. IBRAHIM

JUDGE