

**REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI (NAIROBI LAW COURTS)
DIVORCE CAUSE 122 OF 2005**

SUSY WAGABI WANDERA.....PETITIONER

VERSUS

PETER NZINGA MALIKI.....RESPONDENT

J U D G M E N T

Susy Wagabi Wandera prayed the court for an order to dissolve her marriage to the Respondent on grounds of cruelty whose particulars were detailed in paragraph 10 of the Petition.

The two were married on 4th August, 1999 at the Registrar's Office in Nairobi.

The Petitioner produced her Marriage Certificate in court. The 2 had no children, and again, the 2 never lived and cohabited after marriage because she left Kenya two days after the marriage, and traveled to the USA from where she did not return until after 7 years. That the Respondent forced her into the marriage because he wanted to ensure that she would return back to Kenya if she went to the USA.

Peter stayed behind and subsequently married somebody else, Jane and Peter have two children. Upon return, the Petitioner did not resume cohabitation with Peter whom he said was cruel to her both emotionally and verbally.

She has not condoned Peter's cruelty, and has not brought this petition in collusion with him.

Both the Petitioner and Respondent are resident in Kenya.

The Respondent was served with the petition, but he failed to enter appearance or file a reply. The cause was thus certified undefended.

From the Petitioner's evidence on record, I am satisfied that the marriage between these 2 have broken down due to what the Petitioner describes as "**cruelty**" which the Respondent failed to appear in court to oppose.

I therefore find that the Petitioner has proved her petition on a balance of probabilities, and I proceed to grant an order dissolving her marriage to the Respondent.

The Petitioner will pay her own costs.

I direct that the decree nisi do issue today, and the same be made absolute within a period of one month from today.

Dated and delivered at Nairobi this 3rd day of December 2007.

Joyce Aluoch

Judge