



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

**AT NAKURU**

**H.M ..... PETITIONER**

**VERSUS**

**A.M ..... RESPONDENT**

**JUDGMENT**

The petitioner, in this divorce petition, sought for orders of dissolution of the marriage between her and the respondent that was solemnized on 6<sup>th</sup> March 1982 before the District Commissioner at Kirinyaga. Upon the solemnization of the marriage, the parties who are domiciled in Kenya cohabited in various places; Kerugoya, Mombasa, Nairobi and Nakuru. The parties have five (5) issues who have attained the age of majority except for T N who was born in 1999.

The petitioner is an (PARTICULARS WITHHELD) while the respondent is a (PARTICULARS WITHHELD)

This petition was defended, but the respondent who was duly served did not attend court during the hearing. The petitioner thus proceeded to give evidence in support of the petition.

According to the petitioner, the respondent had treated her with cruelty and she reiterated the several acts of cruelty stipulated under paragraph 9 of the petition.

Besides the cruelty, the petitioners complained that the respondent deserted her since the year 2001. According to the petitioner, the marriage is irretrievably broken down and all her efforts to have the problems resolved amicably by family members failed to yield any success. The respondent has been quarrelsome, and also has committed adultery with women known and unknown to the petitioner. The petitioner recalled one incident where the petitioner purported to get married to another woman through a customary marriage by swearing an affidavit before a Commissioner for Oaths on 21<sup>st</sup> November 1992. In the said affidavit, the respondent declared that he underwent through a Customary Law Marriage with one J.M.O with whom they have two (2) issues. That notwithstanding the fact that the respondent's marriage with the petitioner was still subsisting.

I have considered the petitioner's evidence and the pleadings filed herein. The petitioner's evidence is not all controverted. I am satisfied that the petitioner has been able to prove her case to the required standard. I am also satisfied that this petition is not brought through collusion but for reasons that the marriage relationship has failed due to the problems of cruelty, desertion and adultery on the part of the respondent.

Accordingly, I hereby pronounce the decree of divorce, and the decree nisi shall issue for a period of three months. The petitioner has had the custody of the minor and of the marriage and I hereby grant her the order of custody as prayed.

The petitioner shall also have the cost of this petition.

It is so ordered.

Judgment read and signed on 15<sup>th</sup> December 2006.

**MARTHA KOOME**

**JUDGE**