



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**  
**DIVORCE CAUSE 138 OF 2001**

**N.H.H.....PETITIONER**

**VERSUS**

**B.A.M.....DEFENDANT**

**JUDGMENT**

The Petitioner in this Divorce Cause sought for an order of dissolution of the marriage that was solemnized between her and the Respondent on the June 1994 before the Office of the Registrar of Marriages Sheria House.

Upon marriage the parties cohabited as husband and wife at Loresho Crescent State House Road and Lavington Area until 8th May 1999 when the Respondent deserted the matrimonial home.

There is one issue of the marriage a girl child called N.M. born in 1994.

As at the time of the marriage the parties were both domiciled in the Republic of Kenya. The Petitioner is still a Kenyan citizen working as a part time beautician in Nairobi.

This Petition is not defended and it was certified as undefended case on 23rd June 2005 when the Respondent's certificate was issued.

The Petitioner therefore gave evidence in support of the Petition and reiterated all the particulars of cruelty contained in paragraph 8 of the Petition.

According to the Petitioner this marriage was characterized by acts of cruelty, violence, mistrust and total neglect of the Petitioner and the child of the marriage by the Respondent.

The Petitioner was assaulted many times and as a result of this systemic cruelty she suffered mental stress and her health deteriorated such that she would not engage in gainful employment.

This situation was exacerbated by the fact that the Respondent deserted the matrimonial home without any lawful excuse or provocation on 8th May 1999. His whereabouts since that time has remained unknown so the Petitioner despite her efforts to trace the Respondent through his relatives.

This abrupt separation caused the Petitioner and the child of the marriage intense anxiety especially because the Petitioner was left destitute without any means of support.

According to the Petitioner there has been no resumption of cohabitation for the last 5 years and this Petition is not brought through collusion but for reasons that the marriage is irretrievably broken down. The Respondent therefore sought for an order of dissolution and the custody of the child who has been

under her care and control since the separation.

I have given due consideration to the uncontested evidence of the Petitioner and I am satisfied that she have proved her case to the required standard. I am also satisfied that this Petition was not brought by collusion but for reason that the marriage is broken down there has been a separation for a period of 5 years whereby the Petitioner has been looking after the issue of marriage single handedly.

Accordingly, I hereby pronounce the decree of divorce and dissolve the marriage that was solemnized on 11th June 1994. The decree nisi to issue after the statutory period of one (1) month.

The Petitioner shall have the custody of the child.

Costs in the cause

It is so ordered.

Judgment read and signed on 14/10/05

**MARTHA KOOME**

**JUDGE**