



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NAIROBI.**

**DIVORCE CAUSE NO. 8 OF 2003.**

**A.W.M.....PETITIONER.**

**VERSUS**

**E.M.M.....1ST RESPONDENT.**

**S.W.K.....2ND RESPONDENT**

**JUDGEMENT**

The Petitioner in this Divorce cause **A.W.M** has petitioned for the dissolution of the marriage solemnized between her and **E.M.M** on 17th October, 1986 at the office of the Registrar of Marriage.

After the said marriage, the parties resided and cohabited in Nyeri and in Nairobi. There are six issues of the said marriage namely:-

- a) V.W born on 25th June 1982.
- b) L.W born on 8th December, 1983.
- c) T.M born on 20th September, 1985
- d) N.M born on 19th October, 1987.
- e) D.N born on 10th September, 1989.
- f) W.K born on 19th April, 1991.

The petition was certified as an undefended cause on 29/5/2003. The petitioner testified during the hearing and gave a detailed account of

incidences of cruelty, physical and verbal violence that she has undergone in the cause of the marriage in the house of the respondent.

The 1st respondent was involved in extra marital relationships with the 2nd respondent. They have a child together and they have been living together since the petitioner left the matrimonial home. Besides the complaint of adultery, the 1st respondent has also been cruel to the petitioner and the children of the marriage. The 1st respondent used to neglect the family by willfully refusing to pay school fees. In July 2001, he stopped paying rent for the house the family was occupying nor contribute towards buying food for the family. This forced the petitioner to beg for money around and caused her tremendous humiliation. The petitioner was also subjected to physical assault, she was beaten and threatened with death; so did the

1st respondent assault one of the children Violet Wanjiru thereby causing her bodily harm.

For the above reasons and other contained in the amended petition, the petitioner could not take it any more and she left the matrimonial home with one issue D.N for the sake of her own safety and security and of the children.

She is now seeking for the dissolution of the marriage and custody of the other two children who are not yet 18 years old –N.M and W.K

I have carefully looked at the Amended Petition and then evaluated the evidence by the petitioner and I am satisfied that the petitioner has

been subjected to cruelty, neglect and abandonment by the 1st respondent who now openly lives with another woman.

The petitioner has also not condoned these acts of cruelty and I will therefore grant the order that the marriage between the respondent and the defendant be dissolved. The decree nisi to issue after a period of six months. The petitioner shall have the custody care and control of David Njoroge for whom the 1st respondent is ordered to pay school fees. As regards the other two minor children, I direct the petitioner to file a separate application to enable the court inquire into their circumstances and what is in their best interests. The petitioner shall also be entitled to the costs of this petition against the 1st and the 2nd respondent.

Orders accordingly.

Judgement read and signed on 23/1/2004

M. KOOME J.

23. 1. 2004