



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT NAIROBI (MILIMANI LAW COURTS)**  
**DIVORCE CAUSE NO. 62 OF 2003.**

**S.B.W.W.....PETITIONER.**

**VERSUS**

**D.L.W.....RESPONDENT.**

**JUDGEMENT**

The Petitioner in this cause is **S.B.W.W.** She has petitioned for the dissolution of the marriage solemnized on 30/11/91 at the P.C.E.A. St. Andrews Church Nairobi between the petitioner and the respondent **D.L.W**

After the said marriage, the parties cohabited at O[...] Estate in Nairobi. There are two issues to the said marriage namely

a) M.W (a boy born in 27/7/84)

b) E.G.W (a girl born in 1990.)

In prosecution of the petition for divorce, the petitioner testified and gave a detailed account of various incidences of how the respondent treated her with cruelty. The respondent was given to excessive drinking of alcohol and was coming home late while under the influence of alcohol. The petitioner testified how she used to be beaten by the respondent and also be abused verbally. The verbal abuse were very negative. The petitioner also suffered from financial neglect as she used to put her money in the respondent's bank account, who would in turn give her money for her transport.

The Respondent was also cruel to the first born son and the children also witnessed this cruelty subjected to the petitioner as they would intervene and throw a blanket to the petitioner whenever she was kicked out of the matrimonial home at night. The petitioner reported some of these incidences to the police; the petitioner attempted reconciliation with the respondent and parents which did not work and eventually the petitioner was forced to leave the matrimonial home on 12/12/2000 for the sake of her own safety. She went to the United Kingdom where she was working.

During cross-examination, the petitioner admitted that there was violence even when the couple cohabited for 10 years before the marriage was formalized. She however hoped the respondent would change but this was never to happen.

The petitioner also clarified that Divorce Cause No. 42/2003 was filed by mistake by her Advocate, however, it was withdrawn immediately they discovered there was a mistake and hence there is no other cause pending in this court.

The Respondent has also cross-petitioned for divorce, he denied that he was cruel to the petitioner but states that it was the petitioner who was cruel to him. She used to embarrass the Respondent by borrowing items from other people and by running away with his children.

I have evaluated all the evidence tendered herein as well as the pleadings.

The petitioner has petitioned for dissolution of the marriage and the respondent filed an answer and cross-petition. Whichever way one looks at this matter, both parties want a divorce hence the marriage is irretrievably broken down and same should therefore be dissolved. Each party complains of cruelty but I find that the petitioner was subjected to cruelty, which forced her to run away with the children. I also find the Respondent neglected to provide the petitioner with money for her financial needs hence she was forced to borrow items which in turn embarrassed the respondent. For reasons that this marriage is irretrievably broken down, I will grant an order dissolving the marriage solemnized on 30th November, 1991 at P.C.E.A at St. Andrews Church Nairobi. The decree nisi shall issue for a period of 30 days.

The respondent shall have custody care and control of the minor issue E.G.W and pay school fees and other related expenses.

The petitioner shall have unlimited but reasonable access to the minor with liberty to apply.

Each party shall bear their costs of this suit.

Judgement read and signed on 23/1/2004

-M. KOOME J.

23. 1. 2004