



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

**DIVORCE CAUSE NO.55 OF 2003**

**D K G .....PETITIONER**

**AND**

**K S G.....RESPONDENT**

**JUDGMENT**

The Petitioner in this divorce cause has petitioned for the dissolution of the marriage solemnized under the Marriage Act before the Registrar Office on 13th December, 1997 between the Petitioner and the Respondent.

After the said solemnization and performance of a religious ceremony the parties cohabited together from 20th December, 1997 at the Respondent's house at Ojijo Road in Nairobi. There are no issues to the said marriage and both parties are domiciled in the Republic of Kenya. There are also no other proceedings pertaining to the marriage in any other court. The Respondent has not filed any answer to the petition and therefore this Divorce Cause was certified as undefended on 25th September, 2003.

During the hearing the petitioner adduced evidence in support of the petition and in particular the particulars of cruelty stipulated under paragraph 8 of the petition. According to the Petitioner she separated from the husband on 5th September, 1998 and they have not lived together ever since and there has been no cohabitation. The Petitioner was forced to leave the matrimonial home because the Respondent neglected/refused to spend time with the Respondent.

The respondent used to come home very late at night and would never disclose his whereabouts. The Respondent refused to discuss anything and refused to communicate on important issues as to whether they should plan for children in their marriage or their future together. He also refused to contribute to the expenses for running the home. The Petitioner was tortured mentally as the Respondent kept telling her to leave the matrimonial home. The Petitioner was eventually forced to leave the matrimonial home.

I have carefully evaluated the evidence adduced by the Petitioner in support of her prayers as well as the grounds of cruelty contained in the petition. I am satisfied that the petitioner has been able to prove the allegations of cruelty and what would amount to constructive desertion on the part of the Respondent. I am also satisfied that the Petitioner has not condoned the cruelty. Accordingly I pronounce a decree of divorce and dissolve the marriage solemnized on 13th December, 1997.

The decree nisi shall issue for a period of two months for reasons that the marriage is irretrievably broken down and parties have not cohabited since September, 1998. I have no desire to prolong their agony. The Respondent shall pay a sum of Ksh.500/= per month being maintenance. Each party shall bear their own costs to this litigation.

Any party shall be at liberty to apply.

It is so ordered.

Judgment read and signed on 5th March, 2004.

MARTHA KOOME

JUDGE