



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**  
**DIVORCE CAUSE NO. 71 OF 1999**

ANNE WAMBUI NGANGA ..... PETITIONER

VERSUS

NICHOLAS NGANGA NDUNGU ..... RESPONDENT

**J U D G E M E N T**

By a petition filed in court on 24th May, 1999, the petitioner Ann Wambui Ng'ang'a prayed the court to dissolve her marriage to the respondent Nicholas Ng'ang'a Ndung'u, on the ground of the respondent's cruelty, whose examples were given in para 7 of the petition.

The record shows that Notice of the Petition was given to the respondent who entered appearance through Messrs Kamata & Co. Advocates on 24th November, 1999. Thereafter, no answer was filed by the respondent, and on 16th December, 1999, the petitioner through her counsel Messrs Mukuru & Co. Advocates filed an application for Registrar's certificate, and the same was issued on 25th July, 2000. The cause was certified as an undefended cause.

Hearing dates were taken from the registry by the petitioner's counsel. I see that the same were served on counsel to the respondent, but there was no appearance on the day of the hearing.

I have found in the court file a document headed "Reply to Petition" dated 9th April, 2001, and filed in court on 11th April, 2001. I have disregarded this reply to petition because it was "sneaked" into the court file after the registrar had given her certificate.

The petitioner lives in Riruta Satellite. She got married to the respondent on 19th November, 1986, at the Office of the Registrar General in Nairobi. She produced the original copy of the marriage certificate as Ex.1.

After marriage, the two lived and cohabited in Dandora estate, Githurai village and Uthuru village all within Nairobi City. The couple had no children, but the petitioner had her own child, born before her marriage to the respondent.

The couple separated in 1988, after only two years of marriage. The petitioner alleged that the respondent was cruel to her child and would lock her out of the house sometimes though she was only 3 years old.

The petitioner stated further that the respondent started coming home late and also drunk. That at times he would not come home for several days, and because the petitioner was not working she would have nothing to eat with her daughter.

She also recalled instances when the respondent would embarrass her in front of neighbours or visitors

by calling her a “prostitute”.

The petitioner confessed that she had known the respondent for less than one year before she got married to him. She has otherwise not seen him since 1988, when they separated.

She prayed the court to dissolve her marriage to the respondent and order the respondent to pay costs of the petition.

Both the petitioner and respondent are domiciled in Kenya and have their usual place of residence in Kenya. There have been no previous proceedings between them.

The petitioner’s evidence was not contested by the respondent as the cause was certified as an undefended cause by the Registrar. I am therefore entitled to accept the petitioner’s evidence of cruelty by the respondent. I find that it is this cruelty which caused the breakdown of the marriage between this couple. Besides, that, there has been no contact between the petitioner and the respondent, since 1988. This means that by sheer conduct, there is no marriage left between them. I therefore formally proceed to dissolve the marriage between the petitioner and respondent.

Further, I condemn the respondent with the costs of the petition.

Dated in Nairobi this 12th day of July, 2001.

**JOYCE ALUOCH**

**PUISNE JUDGE**