



**REPUBLIC OF KENYA**

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

**FAMILY DIVISION**

**DIVORCE CAUSE NO. 247 OF 2013**

**E M I.....PETITIONER**

**VERSUS**

**R W K.....RESPONDENT**

**JUDGEMENT**

1. Marriage was celebrated between the parties herein on 8<sup>th</sup> May 2009 at the Office of the Registrar of Marriages, Nairobi. A certificate of marriage, serial number [particulars withheld], was issued to them in accordance with the Marriage Act, Cap 150, Laws of Kenya (now repealed). The parties cohabited thereafter within Nairobi, Kenya. They were blessed with issue – T R W – born on 20<sup>th</sup> November 2002.

2. It is pleaded that since the celebration of the marriage the respondent has treated the petitioner with cruelty. It is averred that the respondent refused to relocate to the United States of America to join him there after he had obtained residency status, she is said to have broken off any communication between them thereafter, she is said to spurn efforts by the petitioner to meet her whenever he is in Kenya, the petitioner has been denied conjugal rights as a result, among other particulars.

3. It is also pleaded that the respondent has been guilty of desertion by refusing to join the petitioner in the United States of America, denying him conjugal rights, cutting off communication, spurning reconciliation, blocking access to the child and living apart from the petitioner. The petitioner also pleads wilful neglect.

4. The petitioner pleads that on account of the cruelty, desertion and wilful neglect pleaded the marriage has irretrievably broken down.

5. On 25<sup>th</sup> February 2015, the Deputy Registrar cleared the petition to proceed as undefended. The Petitioner testified on 1<sup>st</sup> September 2016. His testimony gave vent to the allegations made in his petition.

6. From the material placed before me it is clear to my mind that the marital relationship between the petitioner and the respondent has totally broken down. I am satisfied that the respondent has been cruel to the petitioner and constructively deserted him. I have noted that cohabitation has been broken, and parties have been apart since 2003 when the petitioner moved to the United States of America. The marriage no doubt has practically come to an end.

7. In the circumstances, I am moved to make the following final orders:-

**(a) That the marriage between the petitioner and the respondent, celebrated on 8<sup>th</sup> May 2009, is hereby dissolved;**

**(b) That decree nisi shall issue forthwith, to be made absolute after thirty (30) days; and**

**(c) That there shall be no order as to costs.**

**DATED, SIGNED and DELIVERED at NAIROBI this 10<sup>TH</sup> DAY OF MARCH, 2017.**

**W. MUSYOKA**

**JUDGE**