



**REPUBLIC OF KENYA**

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

**DIVORCE CAUSE NO. 163 OF 2014**

**BETWEEN**

**S N K.....PETITIONER**

**AND**

**F R K.....RESPONDENT**

**JUDGMENT**

1. Marriage was celebrated between the parties herein on 24<sup>th</sup> February 2002 at the New Life Covenant Church at Nyathuna, Kikuyu. A certificate of marriage, serial number *[particulars withheld]*, was issued to them in accordance with the Marriage Act. The parties thereafter cohabited at Nyathuna and later at Wangige town within the Kikuyu District. The couple was blessed with issue, four children, being R W (15 years of age), G N (14 years), I K (10 years old) and E N (7 years).

2. The petition in this matter was filed in court on 24<sup>th</sup> July 2014. The petitioner accuses the respondent of cruelty. She is said to have adopted a cavalier and don't care attitude towards the petitioner and the children of the marriage, refused to maintain a good relationship with the petitioner by refusing to have a proper dialogue with him, exposed the petitioner and the children to incessant quarrels and disagreements over minor issues suggesting that the parties do not really have anything in common, has persistently insulted the petitioner and made wild allegations against him which included among others infidelity, treated the petitioner with arrogance and disrespect, treated the children of the marriage with cruelty by insulting and beating them and thereby causing them emotional distress and torture, denied the petitioner his conjugal rights and deserted the matrimonial home sometime in January 2013.

3. The petitioner pleads that all efforts to reconcile with the respondent have failed, for the respondent has rebuffed them, and urges that the marriage has for all purposes irretrievably broken down. The petitioner prays for dissolution of the marriage.

4. The respondent replied to the petition by way of an answer to the petition dated 9<sup>th</sup> September 2014. She denies all the allegations of fact pleaded in the petition, inclusive of the particulars of cruelty. She accuses the petitioner of being a possessive and insecure man, who has been verbally abusive to her, physically assaulted her several times, attempted to force her to stop working by destroying her tools of trade, failed to provide for the children of the marriage and disappeared from the matrimonial home for days without coming home. She pleads that the marriage has not irretrievably broken down.

5. The matter was cleared by the Deputy Registrar on 11<sup>th</sup> December 2014 to proceed as a defended cause.

6. Both parties testified on 26<sup>th</sup> February 2015 and gave vent to the allegations made in their pleadings.

7. I am satisfied from the recorded evidence that the marriage between the parties has irretrievably broken down. Both sides made very serious allegations of cruelty against each other. I am persuaded that both parties have treated each other with cruelty and meanness. It would appear to me that the marriage between them has irretrievably broken down and there is thus no marital relationship to speak of.

8. It would also appear to me that there has been no collusion between the petitioner and the respondent in the bringing of these proceedings. There is also no evidence that the petitioner has condoned the desertion proved in the matter.

9. Based on the above, I do hereby dissolve the marriage celebrated between the petitioner and respondent on 19<sup>th</sup> February 2003 in the terms of the petition dated 9<sup>th</sup> July 2014. Decree *nisi* shall issue forthwith and shall be made absolute after thirty (30) days. There will be no orders as to costs.

**DATED, SIGNED and DELIVERED at NAIROBI this 6<sup>TH</sup> DAY OF NOVEMBER, 2015.**

**W. MUSYOKA**

**JUDGE**