



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

**DIVORCE CAUSE NO. 202 OF 2012**

**BETWEEN**

**N D S.....PETITIONER**

**AND**

**A C S.....RESPONDENT**

**JUDGEMENT**

1. The petitioner married the respondent on 17<sup>th</sup> October 1998 at a ceremony at Matundu Road in Westlands, Nairobi, Kenya. A certificate of marriage No. *[particulars withheld]* was duly issued, copy of which is attached to the petition filed in court in this cause. The couple thereafter cohabited at addresses in the United Kingdom and Nairobi. The couple was blessed with one issue, K A S.
2. The petition herein was filed in court on 31<sup>st</sup> October 2012. In it the petitioner accuses the respondent of cruelty. It is alleged that the respondent physically abused the petitioner, abused alcohol and attacked the petitioner while so drunk and threatened to kill the petitioner. She avers that all these caused her mental and psychological torture.
3. The petitioner left the matrimonial home on account of the respondent's violent acts towards her, and she has been living with her parents since then. The respondent has lived alone ever since.
4. The petition and the notice to appear were served on the respondent on 17<sup>th</sup> December 2012. There is an affidavit of service on record sworn on 6<sup>th</sup> March 2013 and filed in court on the same date. He did not enter appearance nor file an answer to the petition. The allegations made against him in the petition are therefore not controverted. The cause was cleared by the Deputy Registrar on 25<sup>th</sup> April 2013 to proceed as an undefended cause.
5. When the matter came up for hearing on 10<sup>th</sup> October 2013, the petitioner testified. Her testimony breathed life to the facts pleaded in her papers. The evidence was not controverted.
6. It appears to me that the marriage between the parties has completely broken down. It would also appear to me that there has been no collusion between the petitioner and the respondent in bringing these proceedings. There is also no evidence that the petitioner condoned the cruelty and desertion by the respondent.
7. I hereby make the following final orders:
  - a. That I allow the petition dated 30<sup>th</sup> October 2012 on the grounds set out in the petition, and

- dissolve the marriage celebrated between the petitioner and the respondent on 17<sup>th</sup> October 1998;
- b. That the decree *nisi* shall issue forthwith, to be made absolute after thirty (30) days;
  - c. That all matters touching on the custody and maintenance of the only issue of the marriage shall be placed before the Children's Court; and
  - d. There shall be no orders as to costs.

**DATED, SIGNED and DELIVERED at NAIROBI this 9<sup>th</sup> DAY OF May, 2014.**

**W MUSYOKA**

**JUDGE**

**No appearance for the applicant.**