



**REPUBLIC OF KENYA**

**High Court at Nairobi (Nairobi Law Courts)**

**Divorce Cause 18 of 2012**

**S.K.R.T..... PETITIONER**

**AND**

**I.W.R.....RESPONDENT**

**JUDGEMENT**

The petitioner in this matter married to the respondent on 5<sup>th</sup> November 2002 at a civil ceremony conducted at the Office of the Registrar of Marriages at Sheria House, Nairobi. A certificate of marriage serial number[....] was issued. The couple thereafter cohabited at various places in Nairobi and Oklahoma City in the United States of America. The couple is blessed one child, E.T. The petition in this matter was filed on 7<sup>th</sup> February 2002. The respondent was served through DHL following a court order obtained on 15<sup>th</sup> March 2012. There is an affidavit of service filed in court on 15<sup>th</sup> June 2012, showing that the papers were served on the respondent on 26<sup>th</sup> March 2012 and that she acknowledged receipt thereof. The respondent did not enter appearance nor file answer to the petition, consequently the Deputy Registrar certified the matter to proceed as an undefended cause. In the petition, the petitioner alleges that the respondent has treated him with cruelty. He has particularised the allegations in the petition. He alleges that she deserted him, abandoned the matrimonial home since January 2009 and denied him his conjugal rights. He has enumerated various acts of cruelty in his papers. He elaborated on the said acts of cruelty when he testified orally in court on 24<sup>th</sup> January 2013.

In the absence of an appearance by the respondent, the petitioner's allegations are uncontroverted. The particulars of cruelty set out in the petition remain unchallenged. Even the evidence presented orally in court is also uncontroverted. It would appear that the marriage between the parties has irretrievably broken down. It would appear to me that there has been no collusion between the petitioner and the respondent to bring these proceedings. There is also no evidence that the petitioner has condoned the cruelty meted on him. I find that the petitioner has established his case to the required standard. I will consequently make the following orders:

- 1) The marriage celebrated between the petitioner and respondent on 5<sup>th</sup> November 2002 is hereby dissolved.;

- 2) That joint custody is granted to the petitioner and the respondent of the issue of the marriage, E.T;
- 3) The decree *nisi* shall issue forthwith , to be made absolute after thirty (30) days;
- 4) That there will be no orders as to costs.

**DATED, SIGNED and DELIVERED at NAIROBI this 2ND DAY OF May , 2013.**

**W. M. MUSYOKA**

**JUDGE**