



**REPUBLIC OF KENYA**

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

**DIVORCE CAUSE NO.16 OF 2011**

**J N K.....PETITIONER**

**VERSUS**

**P M N.....RESPONDENT**

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

The Petitioner and the Respondent were married on 18<sup>th</sup> May 1990 at the Registrar’s Office in Nairobi. The marriage was celebrated under the **Marriage Act**. The marriage has been blessed with six (6) children, all adults save for the last born. According to the Petitioner, the marriage has not been a happy one. He accuses the Respondent of committing the matrimonial offence of cruelty. In particular, he averred that the Respondent had been verbally abusive and had insulted him in the presence of their children. He complained that the Respondent had been disrespectful to him and had neglected him. He accused the Respondent of constantly provoking quarrels and thereby caused him to suffer mental anguish and anxiety. For the above reasons, the Petitioner is of the view that his marriage to the Respondent had irretrievably broken down with no possibility of salvage. The Petitioner urged the court to grant his petition for divorce and make a further order directing the Respondent to have custody and care of the minor child of the marriage.

The Respondent was served with the petition for divorce. She did not enter appearance. Neither did she file any papers in opposition to the petition for divorce. The Deputy Registrar of this court issued a certificate certifying this cause as suitable to be heard as an undefended divorce cause. The Petitioner testified during the hearing of the divorce cause. He basically reiterated the contents of the petition for divorce. He stated that over the years their marital relationship had deteriorated resulting in Petitioner and the Respondent on several occasions being separated. The final straw came in 2009 when they separated for the final time. The Petitioner and the Respondent have since lived separately. This court was satisfied from the evidence adduced by the Petitioner that indeed his marriage to the Respondent had irretrievably broken down with no possibility of salvage. It was clear from the testimony of the Petitioner that the Respondent no longer showed the Petitioner the respect as her husband. She was abusive. She humiliated the Petitioner before their children. She neglected the Petitioner resulting in the final separation in 2009. This court is of the opinion that the Petitioner has made a case, which proved to the required standard of proof on a balance of probabilities, the matrimonial offence of cruelty.

In the premises therefore, the marriage between the Petitioner and the Respondent which was solemnized on 18<sup>th</sup> May 1990 at the Registrar’s Office Nairobi is hereby dissolved. Decree nisi dissolving the said marriage is hereby issued. The decree nisi shall be made absolute thirty (30) days from the date of this judgment. There shall be no orders as to costs. It is so ordered.

**DATED AT NAIROBI THIS 8<sup>th</sup> DAY OF OCTOBER, 2013**

**L. KIMARU**

**JUDGE**