



**REPUBLIC OF KENYA**

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

**DIVORCE CAUSE NO.236 OF 2012**

**R M M.....PETITIONER**

**VERSUS**

**S W W.....RESPONDENT**

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

The Petitioner and the Respondent were married on 17<sup>th</sup> October 2006 at the Registrar's Office in Mombasa. The marriage was celebrated under the **Marriage Act**. According to the Petitioner, he cohabited with the Respondent in their matrimonial homes in Ongata Rongai, Nairobi and in Likoni, Mombasa. According to him, the marriage has deteriorated with little or no communication between him and the Respondent. He accuses the Respondent of committing the matrimonial offences of cruelty and adultery. In particular, he averred that the Respondent had been engaging in witchcraft and has threatened him with physical harm. He complained that the Respondent had constantly pointed an accusing finger at the Petitioner's family as being against her because she is childless. These accusations caused distress to the Petitioner.

The Petitioner further accused the Respondent of being bad tempered, rude, of unconcerned attitude, hateful, disrespectful and a person who thrived on manipulating and harassing him. The Petitioner further complained that the Respondent has been an irresponsible wife having neglected his needs as a husband by denying him the love, support and comfort of a wife. He complained that the Respondent has been emotionally abusive and cruel to him and had closed all channels of communication. This caused the Petitioner to suffer mental anguish and anxiety.

The Petitioner further accused the Respondent of being unfaithful by having illicit affairs with other men. The Petitioner stated that he had been forced to move out of the matrimonial home and had been separated from the Respondent. 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.

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 told the court that he had been separated from the Respondent since December 2010. He stated that there was no chance of being reconciled with the Respondent. 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 indeed the marriage between the Petitioner and the Respondent had broken down because of acts of cruelty and infidelity on the part of the Respondent. This court is of the opinion that the Petitioner made a case that proved to the required standard of proof on a balance of probabilities the matrimonial offence of cruelty and adultery.

In the premises therefore, the marriage celebrated between the Petitioner and the Respondent on 17<sup>th</sup> October 2006 at the Registrar's Office in Mombasa 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 1<sup>ST</sup> DAY OF NOVEMBER 2013**

**L. KIMARU**

**JUDGE**