



**REPUBLIC OF KENYA**

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

**FAMILY DIVISION**

**DIVORCE CAUSE NO. 245 OF 2014**

**J I M.....PETITIONER**

**VERSUS**

**R W M.....RESPONDENT**

**JUDGEMENT**

1. Marriage was celebrated between the parties herein on 14<sup>th</sup> September 2001 at the Registrar's Office at Nairobi A certificate of marriage, serial number [particulars withheld], was duly issued under the Marriage Act, Cap 150, Laws of Kenya (now repealed). The couple was blessed with issue, N W M, born on 4<sup>th</sup> December 2001, although the respondent brought another child into marriage, born from another relationship, which child the petitioner informally adopted.

2. It is pleaded that the marriage between the parties has irretrievably broken down, and the petitioner has particularised grounds of cruelty upon which he relies to urge the court to dissolve the marriage. The allegations are that the respondent was harsh to him and shouted at him in front of the children, she was argumentative and indifferent and impolite, has denied him conjugal rights, liberally issued threats, pitting the children against the petitioner, leaving the matrimonial home for long periods of time without the petitioner's permission or without informing him, preventing the children from visiting his parents, among others.

3. The petitioner has also particularised grounds of adultery and desertion. Although it is pleaded that she has had a clandestine relationship, no one has been named as the paramour, and obviously no one has been joined to as a co-respondent with respect to the alleged adultery. The desertion alleged relates to the periods when it is alleged that the respondent leaves home unannounced.

4. The petition was served as evidenced by the affidavit of service on record sworn by Conrad Wekesa on 22<sup>nd</sup> July 2015. The cause was subsequently cleared and certified by the Deputy Registrar on 30<sup>th</sup> July 2015 to proceed as undefended. .

5. The matter was heard on 2<sup>nd</sup> June 2016. The petitioner testified. In his testimony he gave vent to the allegations made in his petition. As the cause was undefended the petitioner's testimony was not controverted.

6. From the material placed before me it is plain that the marital relationship between the petitioner and the respondent has totally broken down. I have noted from the testimony of the petitioner that the parties having been living apart for quite some time now.

7. In the circumstances, I am moved to make the following final orders:-

**(a) That I allow the petition herein dated 22<sup>nd</sup> December 2014 and decree that the marriage between the petitioner and the respondent, celebrated on 14<sup>th</sup> September 2001, is hereby dissolved;**

**(b) That decree nisi shall issue forthwith, to be made absolute after thirty (30) days; and**

**(c) That there shall be no order as to costs.**

**DATED, SIGNED and DELIVERED at NAIROBI this 25<sup>th</sup> DAY OF NOVEMBER, 2016.**

**W. MUSYOKA**

**JUDGE**