



**REPUBLIC OF KENYA**

**IN THE HIGH COURT AT KAKAMEGA**

**DIVORCE CAUSE NO: 1 OF 2011**

**M S O.....PETITIONER**

**VERSUS**

**S M O.....RESPONDENT**

**JUDGEMENT**

The two parties herein got married on 21/6/2003 at the [particulars withheld] Church, Kitale. The petitioner filed the petition in 2011 seeking divorce. Parties agreed to rely on their respective pleadings and called upon the court to make its findings. The petitioner filed her statement and relied on it as her evidence.

From the pleadings and the petitioner's statement, the main ground for the petition is that the respondent has been adulterous ever since the marriage was solemnized. Several incidents have been cited in the petitioner's statement and names of women the respondent allegedly had affairs with have been given. The petitioner further contends that since 2008, the respondent denied her conjugal rights.

On his part, the respondent has denied the allegations of adultery. From his response to the petition, it is clear that the respondent is not contesting the petition.

From the pleadings herein, it is established that the two parties lived together both in Kenya and Germany. Currently the petitioner lives in Germany while the respondent lives in Kenya. The parties were blessed with one daughter who lives with the petition.

The evidence on record shows that the parties herein have not been living together since 2008. The contention by the petitioner that she has been denied conjugal rights have been proved. The other allegations of adultery are also proved as the respondent only made a general denial. I am satisfied that the petitioner has proved her claim. The marriage has irretrievably broken down and there is no possibility of the parties reconciling. I do grant the prayer for divorce as sought. A decree nisi to be issued for a period of six (6) months. The petitioner is granted custody of the only issue of the marriage as the respondent seems to be agreeable to that request. The respondent shall have access to the child. Each party shall meet his/her own costs.

Dated, signed and Delivered at Kakamega this 26<sup>th</sup> day of February 2014.

**SAID J. CHITEMBWE**

**JUDGE**