



**REPUBLIC OF KENYA**

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

**DIVORCE CAUSE NO. 49 OF 2010**

**D.C.K.....PETITIONER**

**VERSUS**

**I.W.C .....RESPONDENT**

**JUDGEMENT**

D.C.K, the Petitioner herein, was married to I.W.C, the Respondent on 4<sup>th</sup> July 1981. The marriage was celebrated at St. Peter's Church in Nakuru under the **African Christian Marriage and Divorce Act**. The marriage was blessed with three (3) issues who are now adults. The Petitioner avers that since the celebration of the said marriage, the Respondent has treated him with cruelty. He sets out the particulars of cruelty in his petition for divorce. In particular, the Petitioner averred that the Respondent had for long stretches, lived away from the matrimonial home thus causing him h to suffer mental stress and anguish. He further accused the Respondent of withholding love and affection towards her and the children of the marriage. The Petitioner stated that the Respondent deserted the matrimonial home sometime in October, 2005 and had since then not returned to the matrimonial home. The Petitioner avers that all efforts to reconcile them had failed. The Petitioner was of the view that the fact that both parties had moved on with their lives was a clear indication that his marriage to the Respondent had irretrievably broken down with no possibility of salvage. In the premises therefore, the Petitioner urged the court to grant his petition for divorce and dissolve the marriage.

The Respondent was duly served with the notice to enter appearance together with a copy of the petition for divorce. She did not enter appearance and neither did she file any papers in answer to the petition for divorce. The Deputy Registrar of this court issued a certificate certifying this cause as a suitable one to be disposed of by this court as an undefended divorce cause. At the hearing of the petition, this court heard oral evidence adduced by the Petitioner. He reiterated the contents of the petition. He told the court that any effort at reconciliation had been unsuccessful. They had been separated for more than eight (8) years. This court has considered the evidence adduced by the Petitioner in this cause. It was clear to the court that the marriage between the Petitioner and the Respondent has indeed irretrievably broken down with no possibility of salvage. The Petitioner and the Respondent have been separated for more than eight (8) years. Efforts at reconciliation have proved unsuccessful. The Petitioner established the matrimonial offence of desertion. In the premises therefore, this court will grant the petition for divorce.

In the premises therefore, the marriage celebrated between the Petitioner and the Respondent on 6<sup>th</sup> August 2004 at St. Peter's Church in Nakuru is hereby dissolved. Decree nisi dissolving the said marriage is hereby issued. The decree nisi shall be made absolute three (3) months from the date of this judgment. There shall be no orders as to costs.

**DATED AT NAIROBI THIS 7<sup>TH</sup> DAY OF MARCH, 2014**

**L. KIMARU**

**JUDGE**