

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MACHAKOS

DIVORCE CAUSE NO. 2 OF 2011

I P J PETITIONER

VERSUS

I M J K RESPONDENT

J U D G M E N T

1. The Petitioner, **I P J** filed this petition on 3/7/2012, against the Respondent, **I M J K** seeking the following orders:-
 - a. **The marriage between the Petitioner and the Respondent be dissolved.**
 - b. **The Respondent do pay the costs of this Petition and all incidental costs.**
 - c. **Any further relief that this Honourable Court may deem just and fit to grant in the circumstances.**
2. The Respondent was served but did not enter appearance or file any answer to the Petition.
3. The Petitioner's case is that he got married to the Respondent at the **Machakos Catholic Church** on 14/2/2008. The marriage was not blessed with any issues. The Petitioner was based in the **United States of America** while the Respondent resided in **Machakos**. The Petitioner left the Respondent with an ATM card for withdrawing money for maintaining herself and her children. However, the Petitioner was not happy with the withdrawals made by the Respondent in the year 2008 which amounted to Kshs.1,260,000/=. According to the Petitioner, that amount was far more than he expected and the Respondent was not willing to disclose how she had spent the money.
4. That the Respondent thereafter subjected the Petitioner to silent treatment. Efforts made by the Petitioner to seek reconciliation failed. The Petitioner averred that the marriage has irretrievably broken down and prayed that the same be dissolved.
5. This cause is undefended. The Petitioner's evidence is therefore uncontroverted. The Petitioner's evidence reveals cruelty due to what he called silent treatment. Both parties have deserted the marriage institution since the year 2008. That was more than three years prior to the filling of this petition. The Petitioner's evidence therefore satisfies the requirements set out in **section 8** of the **Matrimonial Causes Act** for dissolution of a marriage. In any event, nobody can be forced to remain in a union which he does not wish to remain in. Consequently, I allow the petition. Decree Nisi to issue and same will become absolute in six months.

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B. THURANIRA JADEN

JUDGE

Dated and delivered at Machakos this **31st** day of **July** 2014.

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B. THURANIRA JADEN

JUDGE