REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

MILIMANI LAW COURTS

FAMILY DIVISION

DIVORCE CAUSE NO. 244 OF 2013

C K M…….....…….PETITIONER

VERSES

N W K…….....RESPONDENT

JUDGMENT

1. The petitioner's evidence was not challenged as there was no answer filed to the petition.

2. The petitioner married the respondent on 2nd July 2008 at the Registrar's office in Nairobi. The marriage was on 11th October 2009 blessed with a child G M K. In 2010 the couple visited the respondent's home and was surprised to learn that she had another child A W K. This fact had been hidden from him. He further found out that the respondent was earlier married to one P K under Kikuyu Customary Law. He was the father of A. They returned to the matrimonial home, but in July 2012 the respondent returned to her husband P K where she stays up to now.

3. The petitioner seeks the annulment of the marriage. I grant the prayer. The marriage was null *ab initio* as the respondent had no capacity to marry as she was in another relationship.

4. The petitioner stays with A and G and seeks their custody. The request is granted.

5. The respondent shall pay costs of the petition.

DATED and DELIVERED at NAIROBI this 18th September 2014

A.O. MUCHELULE

JUDGE