



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NAIROBI**  
**DIVORCE CAUSE NO 69 OF 2014**

**I S D.....PETITIONER**

**VERSUS**

**S W N.....RESPONDENT**

**JUDGMENT**

1. The Petitioner filed a petition on 24<sup>th</sup> March, 2014 seeking the marriage between him and the Respondent S W N be dissolved.
2. The Petitioner and Respondent solemnized the marriage at the Registrar's office on 1<sup>st</sup> April, 1997 under the Marriage Act Cap 150 (repealed). The marriage was blessed with one issue L W born on 22<sup>nd</sup> September 1997.
3. The Petitioner and Respondent resided in Nairobi.
4. The Petitioner served the Respondent with the Petition but the Respondent did not enter appearance or file Answer to the Petition.
5. The Petition was certified to proceed as undefended cause after the Petitioner obtained the Registrar's Certificate.
6. On 18<sup>th</sup> September, 2014 the Petitioner informed the Court through oral evidence the particular pleaded in the Petition of cruelty and desertion.

The Respondent was cruel to the Petitioner she engaged in outbursts of rage, temper, abuse and quarreled with the Petitioner. The Respondent threatened the Petitioner with harm and made false malicious allegations against him.

The Petitioner was harassed and underwent emotional and psychological anguish. In 2002, the Respondent deserted the matrimonial and left with issue of marriage L W and she never came back.

The Petitioner has not connived or concluded the said behavior. The pleadings and oral evidence strongly suggest that the marriage between the Petitioner and Respondent has irretrievably broken down.

The evidence on record since it was not controverted prove the grounds for divorce prescribed under the New Marriage Act, 2013 Section 66 6(b) and (e) of cruelty and desertion.

The Petitioner and Respondent have lived a part for 12 years since 2000 and therefore there is no likelihood of resumption of cohabitation and reconciliation. There has been no contact during the period of separation.

The marriage solemnized between the Petitioner and Respondent on 1<sup>st</sup> April, 1997 vide Marriage Certificate No. [Particulars Withheld] is hereby dissolved.

- a. Decree nisi to issue forthwith
- b. Decree absolute within 30 days
- c. The custody of the child of the marriage L W is with the Respondent, however, the father is at liberty to apply for access, visitation and the mother for maintenance of the child.
- d. No orders as to costs.

**DATED, SIGNED AND DELIVERED AT NAIROBI THIS 17<sup>TH</sup> DAY OF OCTOBER , 2014**

**MARGARET MUIGAI**

**JUDGE**

*In the presence of:*

**M/s Ooga Holding brief for Mr. Chebii for the Petitioner.**