

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT MOMBASA
DIVORCE CAUSE NO. 47 OF 2014

A WPETITIONER

VERSUS

T K N.....RESPONDENT

JUDGMENT

The Petitioner **A W** has filed this petition seeking the dissolution of her marriage to the respondent **TKN**. The respondent was duly served with both the petition and a summons to enter appearance but he failed to file any reply. The matter therefore proceed as an undefended cause.

The Petitioner testified before the court on 13th October, 2014. She told the court that she and the respondent got married to each other on 6th January, 2001 at the *[particulars withheld]* in Kaloleni. Their marriage certificate is produced as an exhibit **Pexb1**. They set up a home in *[particulars withheld]* in Mombasa. The couple bore two children but unfortunately both children died. The Petitioner told the court that initially all was well as the respondent was a born again Christian. However he later changed and began to consume alcohol. He began to abuse/assault the petitioner. The respondent would stay away from the home for even three months. Eventually in February 2012 the respondent moved out of the matrimonial home. The couple have lived separately since that time.

Section 66(2) of the Marriage Act 2014 provides the grounds upon which a marriage may be dissolved. These grounds include

- Cruelty
- Desertion
- Irretrievable breakdown of marriage

The testimony of the petitioner has not been challenged or controverted as the respondent did not bother to respond to the petition. By leaving the matrimonial home in February, 2012 to date the respondent has deserted his spouse. The couple have been separated for over 2 years. In terms of Section 66(b)(d) the marriage can be said to have irretrievably broken down. I therefore allow this petition for divorce. Decree nisi to issue to be made absolute after three (3) months. No orders on costs.

Dated and Delivered in Mombasa this 25th day of November, 2014.

M. ODERO

JUDGE

In the presence of:

Applicant in Person

Court Clerk Mutisya