



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT KISII
DIVORCE CASE NO. 4 OF 2014

R O.....PETITIONER

VERSUS

J O I.....RESPONDENT

JUDGMENT.

1. This is a short judgment. The petitioner, **R O O**, filed this petition dated 30th January, 2014 against **J O I**, his lawful wife whom he married on 18th July, 2012 in the Adventist church, at [particulars withheld] church in Kisii County.
2. The petitioner and the respondent have lived as husband and wife at Daraja Mbili estate from 8th July, 2012 to 4th October, when the respondent deserted the matrimonial home. There were issues of marriage between the petitioner and the respondent. The respondent has two (2) children from without the marriage, with another man who were not adopted by the petitioner.
3. The application is made on the following grounds:
 - a. **Desertion**
 - b. **Cruelty**
 - c. **Withdrawal of conjugal rights.**

4. The petitioner prays that this court to order that this marriage because of the above grounds, above, outlined be:

The marriage be terminated and/or dissolved.

Each party to pay its own costs.

5. PW1- the petitioner states that he was a widower when he married **J O I**. He is also a professional politician, a businessman and a farmer. Their marriage was a church marriage at [particulars withheld] church on 8th July, 2012.
6. That after this marriage, the petitioner and the respondent, co-habited for collectively 2 months and 27 days in a span of (3) three years. The respondent left the matrimonial home on 4th October, 2012 and has never returned. The respondent says, according to the petitioner's evidence, she cannot fit in the petitioner's life style. She asked for divorce and the parents have returned part of the bride price- dowry, two cows.
7. The petitioner says the respondent exhibited cruelty to the petitioner by receiving numerous phone calls from people who were not related to her upto 11 o'clock at night. I realized these phone calls

- were from boyfriends. The respondent maintained herresidence without my knowledge.
8. The counsel submitted that this is a fit case for the court to enter and grant the order sought as the marriage has irrevocably broken down.
 9. The respondent was served with the petition and notice to appear but failed to appear, hence the petitioner's evidence in chief goes un rebutted.
 10. The court finds that the petitioner has not in any way been an access way to, or connived at and/or condoned the said desertion and cruelty here.
 11. The court further finds that the respondent deserted her matrimonial home and bed, after co-habiting for a total of 87 days in three years. Therefore the court further finds that the said marriage has irrevocably broken down and must be terminated.
 12. The petitioner sought and obtained leave of court on the 27th day of January, 2014, to file the petition before the expiry of three years. Therefore the petition dated 30th day of January, 2014 is hereby allowed and the marriage to the respondent solemnized on 8th July, 2012 is hereby dissolved/terminated. The decree nisi to issue and decree absolute to follow after the statutory period of six months.
 13. It is so ordered.

Dated and Delivered at Kisii this 21st day of November, 2014

C.B. NAGILLAH,

JUDGE.

In the presence of:-

Bunde holding brief for Mariari for the petitioner.

.....for the respondent

Edwin Mongare Court Clerk.