



**REPUBLIC OF KENYA**

**High Court at Mombasa**

**Divorce Cause 38 of 2011**

**E. G. C. .... PETITIONER**

**VERSUS**

**M. C. F. .... RESPONDENT**

**JUDGMENT**

(1) By his Petition dated 30<sup>th</sup> September 2011, the Petitioner seeks the dissolution of his marriage with the Respondent solemnised on 9<sup>th</sup> October 2007, on the ground of desertion. The Petitioner alleged that the Respondent left immediately after their marriage on the 9<sup>th</sup> October 2007 under the pretext that they would prepare for honeymoon but failed to return since then **so that** the marriage was never consummated, and all the Petitioner's effort to trace the Respondent through her parents were fruitless.

(2) The Respondent did not file any response to the Petition and the same proceeded to hearing as an undefended case.

(3) At the hearing, the Petitioner produced the Certificate of Marriage No.[particulars withheld] entry No. [...] of 2007 and the corresponding certified copy of an entry of Marriage No. [...] and testified as follows:

***“We lived for one year at M[...] in Kilifi. After one year, she kept disappearing from home. I followed her at her family's home, but I did not succeed. The family said that it would help to reconcile us but that did not happen. I did not offend her. She just changed. I provided for her to the best of my ability. I pray for dissolution of marriage. I am 30 years and we had no children. The family asked me to follow up with the Respondent. I did not trace her and the efforts were fruitless. I used to deal with her brothers. Their parents are deceased. The Respondent left the home in November 2008. I have not communicated with her since then and I do not know where she is.”***

(4) Although, the evidence does not support the allegation of want of communication and the desertion “immediately after their marriage to wit the 9<sup>th</sup> October 2007; I accept the Petitioner's testimony that the Respondent left their home in November 2008 and never returned, and that his efforts to reconcile and get her back did not bear fruit. I accordingly find that desertion for the required period of 3 years less 1 month under section 8 (1) (b) of the Matrimonial Causes Act has been proved against the Respondent. However, at the time of hearing the parties had been separated for a period of close to 4 years. In the circumstances and in the absence of any Answer to the Petition, I find that the ground of desertion has been proved as against the Respondent.

(5) I therefore grant the Petitioner's prayer for the dissolution of his marriage with the Petitioner solemnised on the 9<sup>th</sup> October 2007 at the Registrar's Office, Mombasa. I make no orders as to costs of the Petition.

**Dated and delivered this 15<sup>th</sup> day of February 2013.**

**EDWARD M. MURIITHI  
JUDGE**

In the presence of:

N/A for the Petitioner

N/A for the Respondent

Mr. Matano - Court Clerk