



**REPUBLIC OF KENYA**

**High Court at Nairobi (Nairobi Law Courts)**

**Divorce Cause 119 of 2011**

**J. M. K..... PETITIONER**

**VERSUS**

**P. W. M..... RESPONDENT**

**J U D G M E N T**

The Petitioner and the Respondent were married on 30<sup>th</sup> April 2004 at the District Commissioner's Office, Kiambu. The marriage was celebrated under the Marriage Act. The marriage has not been blessed with any children. According to the Petitioner, soon after the celebration of the said marriage, the Respondent deserted from the matrimonial home. The Petitioner states that on 5<sup>th</sup> May 2005, the Respondent left the matrimonial home without any justifiable cause. The Respondent took away all the household items. She returned to the matrimonial home in August 2005 only to desert from the matrimonial home again on 3<sup>rd</sup> March 2007. Since then, the Respondent had not returned to the matrimonial home. The Petitioner further pleaded that during the subsistence of the marriage, the Respondent treated him with cruelty. In particular, he averred that the Respondent was verbally abusive towards him. He accused the Respondent of demeaning him before his friends. In the premises therefore, the Petitioner was of the view that the marriage had irretrievably broken down with no possibility of salvage. All attempts at reconciliation had been rebuffed by the Respondent. He urged the court to grant his petition for divorce.

The Respondent was served with the petition for divorce. She did not enter appearance and neither did she file any papers in opposition to the petition. The Deputy Registrar of this court issued a certificate certifying the case as suitable to be heard as undefended divorce cause. During the hearing of the petition, this court heard oral evidence adduced by the Petitioner. He basically reiterated the contents of his petition for divorce. He testified that since he was separated from the Respondent in March 2007, they had not lived together. He stated that there was no chance that they would ever live together again as husband and wife. This court has carefully considered the facts of this case. It was clear from the evidence adduced by the Petitioner that the matrimonial offence of desertion had been proved to the required standard of proof on a balance of probabilities. The Petitioner and the Respondent have lived separately since 3<sup>rd</sup> March 2007. It is now more than six (6) years since the Petitioner and the Respondent related together as husband and wife. If there was a possibility that they would be reconciled, reconciliation would have been attempted during this period. This court therefore holds that the Petitioner has established a case for this court to grant his petition for divorce. In the premises therefore, the marriage celebrated on 30<sup>th</sup> April 2004 between the Petitioner and the Respondent at the District Commissioner's Office, Kiambu is hereby dissolved. Decree nisi dissolving the said marriage is hereby issued. The decree nisi shall be made absolute thirty (30) days from the date of this judgment. There shall be no orders as to costs.

**DATED AT NAIROBI THIS 18<sup>th</sup> DAY OF APRIL, 2013**

**L. KIMARU**

