



**K.O.N..... PETITIONER**

**VERSUS**

**I.A.T..... RESPONDENT**

**JUDGMENT**

By a petition dated 7<sup>th</sup> April, 2011 and filed in Court on 11<sup>th</sup> April, 2011, the Petitioner herein prays for orders that –

- 1. The marriage between the Petitioner and the Respondent be dissolved.***
- 2. Costs be in the cause.***
- 3. Any further or other relief as this Court may deem fit to grant.***

Although the Respondent was duly served with notice to enter

appearance, she neither entered that appearance, nor did she file an answer to the petition or a cross-petition of her own. The matter therefore proceeded undefended.

The grounds upon which the petition is based are cruelty, desertion and adultery. In his sworn oral evidence, the Petitioner told the Court that parties married in June, 2002 and he produced a certified copy of an entry of marriage. In 2005, the Respondent started going out and coming back either very late or not at all. Sometimes she came back drunk, and when the Petitioner confronted her she admitted that she had an affair outside the marriage. In 2006, she packed her things and left the matrimonial home. She never came back and it is now about 6 years ago.

It was the Petitioner's further evidence that he last saw the Respondent in 2010 and that she was expectant. He stated that he knew for a fact that she had a child in 2010 outside their marriage, and he understood that she had a second child as well. As far as he was concerned, the Respondent had married somebody else and this marriage could not be salvaged. He therefore prayed the Court to dissolve the marriage so that he could get on with life as the Respondent now belonged to someone else.

As indicated earlier, this matter proceeded undefended as the Respondent did not file any documents. In my view, this is an indirect way of conceding the accusations leveled against the Respondent. Since the Petitioner's testimony went unchallenged, I find that the Respondent is guilty of the matrimonial offences of adultery and desertion, and that the Petitioner is entitled to the divorce.

I accordingly make the following orders –

- 1. *The marriage solemnized between the parties in June, 2002 be and is hereby dissolved.***
- 2. *Decree nisi to issue.***
- 3. *The decree nisi to become absolute upon application by either of the parties.***
- 4. *Each party to bear its own costs of this petition.***

**DATED and DELIVERED at NAIROB I**this 28<sup>th</sup> day of March, 2012.

**L. NJAGI**  
**JUDGE**