



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT NAIROBI**  
**DIVORCE CAUSE NO.109 OF 2010**

N.B.S *alias* N.B. G.S .....PETITIONER

VERSUS

J.M.B.....RESPONDENT

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

The petitioner and the respondent were married under Customary Law in 1999. On 28<sup>th</sup> July 2009, the petitioner and the respondent formalized their marriage at the Registrar's office in Nairobi pursuant to the provisions of the **Marriage Act**. The marriage was blessed with one (1) issue, a girl born on 13<sup>th</sup> September 2000. According to the petitioner, in August 2009, the respondent left the matrimonial home for the United States of America without informing her. The petitioner avers that since then, the respondent had cut off all communication with her necessitating the petitioner to file the present petition for divorce. From the petition, it was apparent that prior to the respondent deserting from the matrimonial home, the marital relationship between the petitioner and the respondent had deteriorated on account of suspicion on the part of the petitioner that the respondent was engaged in adultery with other women. The petitioner complained that the respondent failed to provide for her upkeep and that of the child of the marriage. It is for the above reasons that the petitioner was of the view that her marriage to the respondent had irretrievably broken down with no hope of salvage. The petitioner therefore urged the court to grant her petition for divorce and therefore dissolve the marriage.

The respondent was served with the petition for divorce. He did not enter appearance. Neither did he file papers in answer to the petition. The Registrar of this court issued a certificate to the effect that the hearing of this divorce cause shall proceed in the absence of the respondent. This court was satisfied that the respondent was duly served and therefore directed the hearing of the petition to proceed in the absence of the respondent notwithstanding. The petitioner basically reiterated the contents of her petition for divorce. She urged the court to grant her petition for divorce. She stated that she had not attempted to be reconciled with the respondent because the respondent had cut off all channels of communication with her.

This court has carefully considered the evidence adduced in support of petition for divorce. This court is satisfied that, indeed, the respondent deserted the matrimonial home thus entitling the petitioner to petition this court for divorce on the grounds of desertion. It was apparent to this court that prior to the respondent deserting the matrimonial home, his relationship with the petitioner had deteriorated. The respondent was not providing for the family. He left the country and re-located to the United States of America without having the courtesy of consulting the petitioner. In the premises therefore, I will grant the petition for divorce.

The marriage solemnized between the petitioner and the respondent, firstly under Customary Law, and later converted to Statutory Marriage on 28<sup>th</sup> July 2009 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. The petitioner shall have the custody of the child of the marriage. There shall be no orders as to costs.

**DATED AT NAIROBI THIS 25<sup>TH</sup> DAY OF FEBRUARY, 2011**

**L. KIMARU  
JUDGE**