



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI
DIVORCE CAUSE NO.148 OF 2009

H.J.H.....PETITIONER

VERSUS

J.L.H.....RESPONDENT

J U D G M E N T

1. By a Petition dated 8th October 2009 and filed on 9th October 2009, H. J. H seeks that the marriage solemnized on 22nd March 1998 with the Respondent, J.L.H, be dissolved and that she be granted custody of the only issue of the marriage, P.J.H.

2. The grounds in support of the Petition are set out at paragraph 7 of the Petition vis;

- (a) ***The Respondent fights with the Petitioner.***
- (b) ***The Respondent beats the petitioner.***
- (c) ***The Respondent has shown no respect whatsoever towards the petitioner.***
- (d) ***The Respondent failed to take of the Petitioner as a spouse should do.***
- (e) ***The behavior of the Respondent is incompatible with that of the Petitioner.***
- (f) ***The Respondent drinks a lot.***
- (g) ***The Respondent walked out of the matrimonial home on 1st November 2005, and has not returned since.***
- (h) ***The Respondent has abandoned the child of the marriage who is now in care and custody of the petitioner.”***

3. Although served with the petition, the Respondent did not respond to it and so the hearing proceeded in his absence and in her evidence in support of the Petition, the Petitioner stated inter alia as follows;

That during the marriage, the Respondent used to beat her for no reason and before deserting the petitioner and their common child, he lied to her that they should visit India but on arrival there, he

disappeared (in 2005) and she did not know where he was.

4. Without spending too much time on the matter, I am satisfied that largely on the ground of desertion, the marriage between the parties herein has irretrievably broken and it is all but a sham. There being no evidence of collusion to file the Cause and the same being undefended, it is in the interests of justice that the orders sought be granted.
5. In the event, I will order dissolution of the parties' marriage and grant custody of the minor to the Petitioner. Prayers (a) and (b) of the petition are therefore granted.
6. A decree nisi shall issue forthwith and to be made absolute within thirty (30) days.
7. As the Cause is undefended, there shall be no order as to costs.
8. Orders accordingly.

DATED, DELIVERED AND SIGNED AT NAIROBI THIS 8TH DAY OF JULY, 2011.

**I. LENAOLA
JUDGE**

CORAM

**I. LENAOLA – JUDGE
David – Court Clerk
Mr. Matwere hold brief for Mr. Vishnu for Petitioner**

ORDER

Judgment duly read.

**I. LENAOLA
JUDGE**