REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
DIVORCE CAUSE NO.91 OF 2009

E. W.K……..……..…...……..PETITIONER

VERSUS

S.F. M…….....…….……RESPONDENT

J U D G M E N T

The petitioner and the respondent were on 26th October 2005 married under the **Marriage Act**. They were married at the Registrar's office in Nairobi. The marriage has not been blessed with any issues. According to the petitioner, since the celebration of the said marriage, the respondent had treated her with cruelty by failing to provide for her basic needs and denying her conjugal rights. The petitioner accused the respondent of desertion. She averred that since May 2006 when the respondent left the country, the respondent had deserted the matrimonial home and had ceased communication with the petitioner. The petitioner was of the view that in the circumstances her marriage to the respondent had irretrievably broken down. The respondent was served with the petition. He appointed an advocate to act on his behalf. However, he did not file an answer to the petition for divorce. The petition for divorce was therefore unopposed.

At the hearing of the petition, I heard oral evidence adduced by the petitioner. She basically reiterated the contents of her petition for divorce. It was clear to the court that the marriage between the petitioner and the respondent had indeed irretrievably broken down since the respondent relocated from Kenya in May 2005. The petitioner obtained an order from the subordinate court on 26th July 2006 granting her application that she was no longer bound to cohabit with the respondent. The petitioner and the respondent have been separated for more than four (4) years. They live in different countries. It is apparent that the chance of the two being reconciled is remote. I will therefore grant the petition for divorce.

In the premises therefore, the marriage solemnized on 26th October 2005 between the petitioner and the respondent is hereby annulled. *Decree nisi* dissolving the said marriage is hereby issued. The said *decree nisi* shall be made absolute thirty (30) days from the date of delivery of this judgment. There shall be no orders as to costs.

DATED AT NAIROBI THIS 26TH DAY OF NOVEMBER, 2010

L. KIMARU
JUDGE