



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT ELDORET**  
**DIVORCE CAUSE NO. 10 OF 2006**

C.S..... PETITIONER

**VERSUS**

L.C..... RESPONDENT

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

This is in respect of the marriage between the Petitioner and the respondent solemnized on 27.08.1993. The parties cohabited in Mombasa and Kisumu. There were three issues of the marriage. The Petitioner alleged desertion by the respondent which he said he did not connive at or condone. He prayed for the dissolution of the marriage.

The Respondent entered appearance but did not file any Answer to the Petition. At the hearing of the Petition she appeared through Mr. Lel Advocate who did not oppose the Petition.

The Petitioner gave evidence that they initially cohabited with the Respondent since 1988 and later formalized their marriage in 1993. He gave further evidence that in 1997 the respondent deserted the matrimonial home and took with her the three issues of the marriage and never came back. He prayed for divorce on that ground of desertion and abandoned his prayer for custody. He prayed that decree absolute do issue at the dissolution of the marriage.

I have considered the tendered evidence. It was not denied that the respondent deserted the matrimonial home in 1997. That was a period of over three years since 1993 when the marriage was solemnized and a period in excess of twelve years of separation of the parties. That separation was not consensual. No marriage exists in those circumstances and I agree with the petitioner when he says that the marriage has irretrievably broken down. I grant an order for divorce as sought. A decree absolute shall issue forthwith as sought. Each party shall bear its costs and custody of the issues of the marriage shall be retained by the Respondent.

Orders accordingly.

**DATED SIGNED AND DELIVERED AT ELDORET THIS 15<sup>TH</sup> DAY OF DECEMBER 2010.**

**P.M. MWILU**  
**JUDGE**

**In the presence of;**

Advocate for Petitioner

Advocate for Respondent

Court Clerk

**P.M. MWILU**  
**JUDGE**