



**REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI (NAIROBI LAW COURTS)**

Divorce Cause 1 of 2005

J.W PETITIONER

VERSUS

P.L.M..... RESPONDENT

JUDGMENT

The Parties herein solemnized their marriage on 17th January 1996 under the Marriage Act (Cap.150). The photocopy of Marriage Certificate was produced by the Petitioner, who testified before me.

After the marriage, they cohabited in several places in Nairobi and also stayed in Brussels.

However, as per the uncontroverted testimony of the Petitioner, the Respondent without her knowledge and without justification or explanation left her and their daughter around the year 2000.

Since then there is no communication from him. The Petitioner does not know the whereabouts of the Respondent. After waiting for about five years, she filed this petition on the ground of desertion by the Respondent.

She is within the law to seek for the divorce on the ground of desertion.

I have no reason not to believe her testimony and thus I do find that the Respondent has deserted the Petitioner and the daughter of the Marriage N.L.T born on 11th February, 1996. I also note that the marriage has broken down.

The Petitioner testified that she was not accessory to or connived at the act of desertion by the Respondent. She also denied having colluded with the Respondent in presenting or prosecuting this petition.

In the premises, I do order that the marriage between the parties herein solemnized on 17th January, 1996 be dissolved. The Respondent to pay costs of the petition.

I also order that the custody, care and control of the daughter of the marriage namely N.L.T be granted to the Petitioner.

I grant leave to the Petitioner to file application for maintenance.

Considering the time since the Respondent left the Petitioner I direct that the decree nisi be made absolute within 45 days hereof.

Dated and signed at Nairobi, this 3rd day of April, 2008.

K.H. RAWAL

JUDGE

3.4.08