



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT NAIROBI (NAIROBI LAW COURTS)**

**Divorce Cause 133 of 2007**

**J O M ..... PETITIONER**

**VERSUS**

**E B N ..... RESPONDENT**

**JUDGMENT**

The Petitioner, J O M and E B N entered into a civil marriage at the Registrar's office on 24.6.2003. They obtained a marriage certificate No.104733 of the same day. There is evidence that they cohabited together a husband and wife at Langata and consummated their marriage.

On 12.9.2006, the Petitioner who had gone upcountry returned home only to find an empty house. His wife had packed all household goods and disappeared. When he reached her she said that she was in Ongata Rongai in Nairobi South. She confirmed she had left for good, never to return.

By the time this petition was filed by the Petitioner-husband, his wife had not returned home and even today, she is away.

The Petitioner is asking this court to dissolve the marriage on the ground of desertion. The Respondent/wife did not file any Answer to this petition, thus not controverting the evidence of the petitioner as what really happened.

I have considered the case. I accept the Petitioner's evidence that the Respondent without reasonable cause deserted the Petitioner on 12.9.2006 and has never come back. The marriage clearly has irretrievably broken down. It has no prospects of being salvaged. It would be against public policy to try to tie the parties herein together any further. On the other hand, they should be set free for each to steer a new cause which might benefit either more and better.

I have come to the conclusion therefore that this marriage will be dissolved on the following terms-

**ORDER:-**

1. The marriage entered into between J O M and E B N on 24.6.2003 is hereby dissolved and a decree nisi for three months shall issue forthwith, with liberty to either party to apply to make it absolute.

2. There will be no order as costs.

Dated and delivered at Nairobi this 25<sup>th</sup> day of September, 2008.

**D.A. ONYANCHA**

JUDGE