

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

Divorce Cause 50 of 2008

FMS PETITIONER

VERSUS

VHV. RESPONDENT

JUDGMENT

The parties herein are from different religious and married under Marriage Act on 13th August, 1997. They cohabited at premises situate along 3rd Parkland Avenue, Nairobi.

The marriage bore two children who are 10 and 4 years respectively.

The marriage did face ups and downs but on or about February, 2005 the Respondent deserted the Petitioner with her two children without any reasonable cause. The Petitioner is unaware of any reason caused by her to make the Respondent desert the whole family. Since that day the Respondent has neither communicated or given any support either financially or emotionally to the Petitioner as well as to the children. He has just left them on their own. She denied having filed or prosecuted this petition in collusion with the Respondent. She testified that she tried her very best to sustain the marriage but the Respondent has given no heed for her efforts.

Her evidence was simple and very straightforward and I do tend to rely on the same over and above the same having remained uncontroverted.

The Respondent has not taken any care of the two children since his desertion in February, 2005 and thus I shall also find that he has neglected to look after them.

In the premises aforesaid, I do find that the Petitioner has deserted the Respondent without reasonable cause for the period of over three years prior to the date of filing of this petition on 9th May, 2008.

I thus grant the order that the marriage celebrated between the parties be dissolved and the decree nisi be made absolute within 60 days from the date hereof.

I further grant the order of custody, care and control of two children namely; V. V.V. and H. V. V. (both minors) to the Petitioner.

As the Petitioner has not prayed for costs, I shall not grant any.

Orders Accordingly.

Dated and signed at Nairobi this 20th day of November, 2008.

K.H. RAWAL

JUDGE

20.11.08