



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**

**(MILIMANI LAW COURTS)**

**Divorce Cause 106 of 2002**

**DOUGLAS NDUMIA MUNGA ..... PETITIONER**

**VERSUS**

**ANN WANJIRU MUNGA ..... RESPONDENT**

**JUDGMENT**

The Petitioner/husband has filed this cause seeking dissolution of his marriage with the Respondent solemnized on 8<sup>th</sup> January, 1977.

The only ground on which he seeks the prayer for dissolution is the constructive desertion by the Respondent without reasonable cause.

The marriage was blessed with four children who are now adults.

Both the parties are domiciled in Republic of Kenya. The Respondent has filed an answer, but at the time of hearing of this cause, she chose not to adduce any evidence.

As per the uncontroverted evidence led by the Petitioner, during the month of April, 1996 the Respondent threw the Petitioner out of the matrimonial home and obtained an order dated 23<sup>rd</sup> July, 1996 in Separation Maintenance Cause No.43 of 1996, which restrained the Petitioner from interfering with her quiet enjoyment of the matrimonial home. Since the date, the Petitioner has not shared matrimonial home and did not have any relation with the Respondent.

The Original Petition dated 15<sup>th</sup> July, 2002 was amended on 17<sup>th</sup> February, 2006 in the court.

His allegations and averments as regards the constructive desertion were not challenged either by the Respondent or her Counsel both of whom were present during the hearing.

The Respondent also did not lead any evidence in response to the evidence adduced by the Petitioner.

In the premises, I have no other option but to accept the uncontroverted evidence of the Petitioner as true.

The petition as well as amended one were filed after lapse of three years since the date of desertion and I find that the Respondent is guilty of constructive desertion of the Petitioner.

In the premises, I order that the marriage solemnized between the parties herein on 8<sup>th</sup> January, 1977 be dissolved.

Decree Nisi be made absolute within 60 days from the date hereof.

Dated and signed at Nairobi, this 9<sup>th</sup> day of March, 2007.

**K.H. RAWAL,**

**JUDGE**

**9.3.07**