



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

**Divorce Cause 119 of 2000**

**PN C ..... PETITIONER**

**VERSUS**

**N K M ..... RESPONDENT**

**JUDGMENT**

This petition was properly certified as an undefended cause by the Learned Deputy Registrar.

The Petitioner gave her forthright testimony which remained uncontroverted.

She testified that after her marriage with the Respondent on 2<sup>nd</sup> August, 2001, (Marriage Certificate was produced as Ex.1). they cohabited in places along Thigiri Rigde Road and Arwar Villa in Nairobi. Their marriage bore two male children namely,

1. N N K C born on 5<sup>th</sup> September, 1988
2. S N K Chandaria born on 25<sup>th</sup> April, 1991.

As per her testimony their marriage had problems as the Respondent had several extra marital affairs which gave her mental anguish. The Respondent had admitted having those affairs openly to her without any relent. Eventually in July, 1999 he deserted the family without any prior information or any reasonable cause. He simply did not return home from trip to London. Since then he has failed to maintain her or the children and has not communicated even with the children since middle of 2000. In short, he just disappeared from their life leaving the burden of looking after the family on the Petitioner.

She tried to talk to the Respondent through his parents but he refused even to talk to his parents on the matter.

The Petitioner denied that she has connived at or condoned his acts of adultery and neglect and that she has colluded with the Respondent in presenting or prosecuting this petition.

From her uncontroverted and honest testimony, I could, in law, find that the Respondent had been unfaithful to the Petitioner. I also note that she has testified that the Respondent did confess to her of being unfaithful to her. She candidly said that those events caused her mental anguish and torture.

However, even if I consider the said averments not satisfactorily proved, which I do not, I am fully

satisfied that by deserting the family, the Respondent is guilty of grave acts of cruelty which alone can entitle the Petitioner to get the orders sought for by the Petitioner.

The upshot of the above is that I order:

- 1. That the marriage solemnized between the parties before me be dissolved, and**
- 2. That the custody, care and control of the children of the marriage named in this judgment be granted to the Petitioner.**

The Petitioner being a proud woman has refused to have any order of maintenance and cost and thus I do not grant the same.

The marriage is broken since the year 1999 and thus I also direct that the decree nisi be made absolute within 30 days from the date of this judgment.

Dated and signed at Nairobi this 11<sup>th</sup> day of May, 2006.

**K.H. RAWAL**

**JUDGE**

**11.5.06**