

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

Divorce Cause 136 of 2004

J.K.K PETITIONER

VERSUS

E.K.K..... RESPONDENT

JUDGMENT

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

The Petitioner thus testified and her evidence was uncontroverted. I had keenly observed his demeanous during his testimony, and I can only say that, I have no reason not to believe him and take his evidence as credible and reliable.

The Petitioner, as per the certified copy of entry of marriage produced (Ex.1) married the Respondent Elizabeth Kanario Kimathi on 13th July, 1991 at Maua Catholic Church at Meru.

The couple thereafter cohabited in several places at Meru and Nairobi up to June, 1994.

They have two children of marriage, namely:-

- 1. J.K.K2 born on 10th September, 1989**
- 2. J.M.K born on 5th October, 1992.**

The said children live with and catered for by the Petitioner after the Respondent, without reasonable cause deserted them in June, 1994. I do note that at that- time the last born was of tender age of two years. The couple had lived together before the marriage and their first son was born before the solemnization of their marriage. Their subsequent marriage legitimized his status as a son.

The Respondent, since her desertion, has not been in constant touch with the children and not with the Petitioner also. She visits the children for a day or two when the sons are on their holidays. Apart from that the Petitioner looked after the welfare of the two children.

The petition was filed on 18th November 1997, after a lapse of more than three (3) years from the date of desertion which is June, 1994. The Petitioner has denied that he was accessory to or connived at the said act of desertion by the Respondent.

In the premises, I shall accept the evidence led by the Petitioner, and find that the Respondent is guilty of the act of desertion without reasonable cause.

Thus I order that the marriage in fact solemnized between the parties before me be dissolved.

The decree nisi be made absolute within 60 days from the date hereof.

Dated and signed at Nairobi this 21st September, 2006.

K.H. RAWAL

JUDGE

21.9.06