



**REPUBLIC OF KENYA  
IN THE HIGH COURT OF KENYA  
AT NAKURU**

**Divorce Case 1 of 2006**

**MDD ..... PETITIONER**

**VERSUS**

**DNM..... RESPONDENT**

**JUDGMENT**

This divorce petition was not contested. The Registrar's certificate was issued on *19<sup>th</sup> June 2006* certifying the matter as uncontested. The petitioner sought for orders of dissolution of the marriage between her and the respondent which was solemnized on *5<sup>th</sup> March 1975* under the Kisii Customary Law of Marriage.

Upon the said marriage, the parties who are domiciled in the Republic of Kenya cohabited in Homabay District and then in Nairobi. The parties have four (4) issues who have attained the age of majority except for **TMN** who was born in 1991 but the petitioner confirmed that he moved to live in the United States of America under a green card visa. The respondent who was duly served with the petition did not enter appearance and thus this was undefended petition.

The petitioner proceeded to give evidence in support of the petition. According to the petitioner, the respondent deserted the matrimonial home in the year 2001 and the petitioner has been living alone whereby she has suffered from loneliness, neglect and been deprived of her conjugal rights.

The petitioner made several attempts to have the marriage between herself and the respondent reconciled but this has proved impossible due to the respondent's negative attitude.

Due to the desertion, the petitioner contended that the marriage is irretrievably broken down and the petitioner has not condoned such desertion and nor is this petition brought through collusion.

For the foregoing reasons, the petitioner sought for an order of dissolution of the marriage.

I have considered the petitioner's evidence and the pleadings filed herein. The petitioner's evidence is not at all controverted. I am satisfied that the petitioner has been able to prove her case to the required standard. I am also satisfied that this petition is not brought through collusion but for reasons that the marriage relationship has failed due to the fact that the respondent deserted the petitioner.

Accordingly, I hereby pronounce the decree of divorce, a decree nisi shall issue for a period of three (3) months and thereafter if there is no application. The same shall be made absolute.

The petitioner shall have the costs of this petition.

It is so ordered.

**Judgment read and signed on 15<sup>th</sup> December 2006.**

**MARTHA KOOME**

**JUDGE**