



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT NAIROBI**

**DIVORCE CAUSE 35 OF 2002**

**S K N.....PETITIONER**

**VERSUS**

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

**JUDGMENT**

The Petitioner in this case sought for an order of dissolution of the marriage between him and the Respondent which was solemnized on 31st day of August 1991 pursuant to the Marriage Act.

Prior to the said solemnization, the parties were married under the customary law and they have the following issues, three of whom have attained the age of majority. *[particulars withheld]*.

The parties who were domiciled in the Republic of Kenya cohabited in Nairobi until April 2001 when the Respondent left the Petitioner ostensibly to visit their daughter who was in the United States of America but she has settled there. This petition was certified as undefended cause and the Registrar's Certificate was issued on 24th February 2005.

During the hearing the Petitioner gave evidence in support of the petition for divorce. He gave a detailed account of how the Respondent deserted the matrimonial home without any reasonable cause in April 2001 with the last born child and has failed to return home. The Respondent has cut off all the means of communication and this has caused the Petitioner tremendous psychological agony.

The Petitioner who contends that he has not condoned the act of desertion therefore sought for the dissolution of the marriage.

I have carefully considered the Petitioner's evidence as well as the pleadings filed herein. In the absence of any evidence to controvert the Petitioner's evidence I am fully satisfied that the Petitioner has proved his case to the required standard. I am also satisfied that petition was not presented or prosecuted through collusion with the Respondent.

Accordingly, I hereby pronounce the decree of divorce and dissolve the marriage that was solemnized on 31st day of August 1991.

The decree nisi shall issue for a period of 3 months.

It is so ordered.

Judgment read and signed on 23rd September 2005.

**MARTHA KOOME**

**JUDGE**