



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT MOMBASA**  
**DIVORCE CAUSE NO.18 OF 2000**  
**IN THE MATRIMONIAL CAUSE ACT**

**N W G.....PETITIONER**

**=V E R S U S=**

**C O N.....RESPONDENT**

**JUDGMENT OF COURT**

The Petition filed by N W G was served upon the Respondent who until the matter came before the court for a hearing did not respond. He did file appearance but filed no Answer to the Petition.

The parties got married before the Registrar of Marriages and were given a Certificate of Marriage No.[**particulars withheld**] dated 13.9.1994, copy of which was produced. In 1995 May, the Petitioner alleges catching her husband in the act of adultery with Petitioner's secretary in the Petitioner's office. They by then had stayed for about a year without cohabitation. They have lived apart for over seven years during which time there has been no cohabitation. Later the Respondent took another woman for a wife and they have one child as such husband and wife or whatever it may amount to. Such cohabitation and getting a child out of it implies adultery. Also, whether by the act of the Respondent as alleged or by that of the Petitioner, the parties have separated and deserted each other for seven years. The Petitioner blames this on the Respondent but Respondent answers not. It therefore goes and it is accepted that what the Petitioner blames upon the Respondent is true.

Finally, the marriage clearly from the start was not meant to be one. It was not treated as one. It was a sham. And once more the Petitioner says that it was all the fault of the Respondent. The Respondent does not say a word in protest.

The presumptions are that what the Petitioner has said is true. It stands in the record unchallenged. It is accordingly accepted by this court as true and proven beyond a reasonable doubt.

There is no way such a marriage can be salvaged. It is broken beyond repair. It should be brought to a legal end so that the parties can go each is/her way. Accordingly I make the following orders:-

**ORDERS:**

1. The marriage between the parties herein is hereby declared dissolved, and a decree nisi should issue forthwith.
2. No order as to costs.

Dated and delivered at Mombasa this 30th day of April, 2002.

**D. A. ONYANCHA**

# JUDGE