



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT MOMBASA**  
**DIVORCE CASE NO.14 OF 2002**

**MARY WAMBUI NGUGI.....PETITIONER**  
**V E R S U S**  
**BUCHLI VALENTIN.....RESPONDENT**  
**J U D G M E N T**

This court has perused the Petition and the Answer with Cross Petition. Both parties cohabited for a short period after marriage in 1998. There is no issue of marriage now surviving. Both parties accuse each other of matrimonial offence namely adultery and desertion. It is clear and I find it proven that there has been desertion for a period of more than 3 years. On admission of parties I find that both parties have committed adultery. Both these matrimonial offences are very serious and are grounds for dissolution of marriage.

I therefore find that the marriage between the Petitioner and the Respondent has broken down completely. In fact for several years no marriage relationship has existed. Each party went out to seek comfort from outsiders. The Respondent has even admitted to have a child with another woman. In the circumstances, their marriage has been in existence only as an empty shell. The evidence shows that the Petitioner is the one who left what was matrimonial home soon after the celebration of the marriage. She does not make any allegation that the Respondent left her or kicked her out of the marital home.

I therefore find that she was the one who committed desertion. She also admits to having committed adultery. I am therefore inclined to find that she is the one guilty of breaking the marriage. She must be the reason that drove the Respondent into adultery.

However, as both parties ask for dissolution of this marriage and as they do not ask for costs from each other, I hereby declare the marriage dissolved and Decree Nisi to issue and to be made absolute after expiration of 4 weeks from to-day.

**Dated at Mombasa this 9th day of February, 2004.**  
**JOYCE KHAMINWA**  
**J U D G E**

