

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

DIVORCE CAUSE NO. 15 OF 2004

F.K.M.....PETITIONER

Versus

T.W.M.....RESPONDENT

JUDGMENT

The petitioner in this Divorce Cause sought for the dissolution of a marriage solemnized between her and the respondent on 2nd June, 1988 at the Attorney General's Chambers at Nairobi. Before the said formal solemnization the parties were cohabiting together as husband and wife under a customary marriage conducted in accordance with the Kikuyu Customary Law of marriage since 1982.

The parties cohabited together in one principle place namely plot No. 292 at Kagemi. They have three issues of the said marriage two of whom have attained the age of majority. This petition was certified as an undefended cause on 24th June 2004. Both parties are domiciled in the Republic of Kenya. They are both engaged in business. During the hearing, the petitioner testified in support of the petition and I gave details of what constituted the acts of desertion on the part of the respondent. According to the petitioner the respondent took away Kshs.300,000/= which was meant for their family business and left their matrimonial home in Kagemi in 1995. The respondent has not returned for a period of 3 years preceding the presentation of this petition. All efforts by the petitioner to reconcile have not been successful. The petitioner has been paying school fees for the children and would like to continue doing so for the child who is still a minor. The petitioner therefore sought for the dissolution of the marriage and he confirmed that he has not condoned the acts of desertion nor has he presented the petition on collusion with the respondent.

I have carefully considered the petition, which was not defended. I am satisfied that due to the fact that the respondent deserted the petitioner in 1995, the petitioner has been able to prove his case to the required standard. I am also satisfied that this petition has not been brought through collusion. Accordingly I hereby pronounce the decree of divorce, the decree nisi shall issue for a period of 3 months. Since the respondent did not defend this cause, the petitioner should bear his own costs. It is so ordered.

Judgment read and signed on 29th October 2004.

MARTHA KOOME

JUDGE