



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

**DIVORCE CAUSE NO. 68 OF 2001**

**J M I M ..... PETITIONER**

**VERSUS**

**G M K .....RESPONDENT**

**J U D G E M E N T**

J M M, petitioned for divorce on grounds of cruelty, desertion and adultery.

The petition was served on the respondent and one Cecilia, the woman named in particulars of adultery. None of them entered appearance or filed an answer to the petition.

The Registrar certified the cause as undefended.

The petitioner and respondent got married on 5th December, 1992 at Mercy Catholic church. They were issued with a marriage certificate which she produced as an exhibit. The couple lived as husband and wife in Eldoret, Nakuru and Nairobi. They had no children. The petitioner complained that the respondent deserted her in 1997. That he went to his home in Masi Machakos and he refused to come back to Nairobi.

At first the petitioner used to go there but she stopped when the respondent started running away from her. This was in September, 1997. In October, 1997, the petitioner was hospitalized. He had informed the respondent but the latter never went to see her in hospital and also refused to pay the hospital bills. She complained further that the respondent has even told her that he has another woman in his life, and they have two children.

The petitioner has not condoned the respondent's act of desertion. She did not collude with the respondent to bring this suit.

The petitioner is a school teacher earning about Kshs.10,000/=. She estimated her husband's income to be about Kshs.300,000/= and prayed the court to award her maintenance of about Kshs.100,000/=.

I considered the petitioners evidence on record and accepted it. I found that it was the respondent's act of desertion which caused the breakdown of the marriage between the two. I therefore proceed to resolve the marriage between them.

The petition contained a prayer for maintenance. It was served on the respondent and he did not file a reply. The petitioner now asks for maintenance of Kshs.100,000/= without giving the court her affidavit

of means.

I am taking into account that she has a job where she earns Kshs.10,000/=. According to her evidence she has no children to maintain, I think an award of Kshs.100,000/= would be too high, in my considered opinion. I would grant maintenance in the sum of Kshs.10,000/= per month with effect from end of March, 2002.

I also order the respondent to pay costs of this petition. I also direct that the decree nisi should issue straight away today.

**Dated at Nairobi this 28th day of February, 2002.**

**JOYCE ALUOCH**

**HIGH COURT JUDGE**