



**REPUBLIC OF KENYA**

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

**DIVORCE CAUSE NO. 38 OF 2001**

**G.M.M .....PETITIONER**

**VERSUS**

**A.C.M.....RESPONDENT**

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

G.M.M prayed the court to dissolve his marriage to A.C.M, on grounds of desertion, whose particulars he gave on ground 8 of the petition.

The notice to the institution of this suit as well as the petition for Divorce were served on the Respondent by publication in the Daily Nation Newspaper, but the latter did not enter appearance or filed a defence. The Registrar therefore certified the matter to be heard as an undefended cause.

The Petitioner and the Respondent got married under the Kikuyu Customary Law in 1970 by the act of their families getting together, and the Petitioner's father paying dowry to the Respondent's family.

Subsequently in that on 22nd March, 1984 the 2 got married under the Marriage Act Cap 50 Laws of Kenya. The marriage certificate was annexed to the petition.

During the subsistence of the marriage the 2 lived in various places as shown in the petition at para 3. They had one daughter born on 19th September, 1978. She is currently undertaking her studies in Canada. The Petitioner re-called that his wife had just completed her A level Secondary School education when they got married. The Petitioner then paid for her to train as a Secretary and was working for the [particulars withheld]. That she started coming home late claiming that she was busy at the office.

The Petitioner refused to accept that explanation and one day the Petitioner returned home suddenly and found that the Respondent had not returned home. She had also taken a total sum of Cash. Kshs.70,000/=; money they were putting together to buy a house. The Respondent never returned to the matrimonial house, and to-date, he does not know where she is.

He had earlier on in the marriage assisted the wife to become a Tanzanian citizen.

From the evidence on record, evidence which is not challenged I am satisfied that the Respondent deserted the Petitioner with no just cause. If she had anything to say, she should have responded to the notice and the summons but she did not. The Respondent's absence from the Petitioner's life and house since 1985, cannot be explained in anyway, except desertion.

I therefore proceed to grant the petition as order to dissolve his marriage to the Respondent. As the Respondent did not file any papers, let the Petitioner pay costs occasioned by his own proceedings.

**Dated at Nairobi this 18th day of July, 2002.**

**JOYCE ALUOCH**

**JUDGE**