



**REPUBLIC OF KENYA**

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

**FAMILY DIVISION**

**DIVORCE NO. 86 OF 2015**

**FKN.....PETITIONER**

**VERSUS**

**DNK.....RESPONDENT**

**RULING**

1. The parties to this divorce cause testified on 1<sup>st</sup> December 2016. The matter was then fixed for mention on 2<sup>nd</sup> February 2017 to confirm filing of submissions.
2. When the matter came up on 2<sup>nd</sup> February 2017, counsel for the respondent indicated that the respondent had died, and furnished to the court a duplicate a burial permit serial number [particulars withheld] dated 16<sup>th</sup> December 2016. According to the said document a DNK had died on 16<sup>th</sup> December 2016.
3. A marriage subsists during the lifetime of the parties, and is terminated automatically upon death. Once one of the parties dies the marriage is no more and there is therefore nothing for the court to dissolve. Death therefore results in the abatement of a divorce cause.
4. Consequently, the cause herein abated on 16<sup>th</sup> December 2016 when the respondent died. The marriage between him and the petitioner herein came to an end. This matter is at an end. The file should be closed. There shall be no order as to costs.

**DATED, SIGNED and DELIVERED at NAIROBI this 10<sup>TH</sup> DAY OF FEBRUARY, 2017.**

**W. MUSYOKA**

**JUDGE**