



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT AT MALINDI**  
**DIVORCE CAUSE NO.14 OF 2014**

**J K G ..... PETITIONER**

**VRS**

**W A ..... RESPONDENT**

**JUDGMENT**

In his petition dated 1/8/2014 the petitioner is seeking to have his marriage with the respondent dissolved. The respondent was served with the petition but opted not to defend the same. The petitioner's evidence is that the two solemnized their marriage on 12/12/1997 at St. Anthony's Catholic Church in Malindi. They were blessed with three children. The last born was born in 1994 and is at the University. The first two are through with their college studies.

It is the petitioner's evidence that the respondent deserted their matrimonial home since 2004. He lives in Kilifi but the respondent's whereabouts are unknown. It is his evidence that he heard that the respondent is living at Thelathameli area near Malindi with another man.

The petitioner further testified that when the respondent deserted him, she left the children under his care. Since 2004, the two have been living separately. The respondent sent him a letter dated 20/11/2009 from an advocate demanding dissolution of the marriage. A second letter from the Federation of Women Lawyers was sent on 25/11/2013 seeking the dissolution of the marriage and distribution of the matrimonial property.

From the petition as well as the evidence by the petitioner, it is established that the parties herein do not live together as a couple. The petitioner has further established that since 2004, they have been living separately. This is a period of over ten (10) years. The respondent seems to be of the idea that the marriage be dissolved. She sent two demand letters seeking the dissolution of marriage. Given the evidence on record, I do find that the petitioner has proved that the marriage has irretrievably broken down. There is no hope for reconciliation as the parties have been living separately for quite some time. All the children are now adults and there is no need for an order of care and control or custody as prayed.

In the end, I do find that the respondent deserted the matrimonial home and that the marriage has broken down with no hope of reconciliation. The marriage between the two parties herein is hereby dissolved. A decree nisi shall issue. Each party shall meet their own costs.

**Dated, signed and delivered at Malindi this 9<sup>th</sup> day of June, 2015.**

**SAID J. CHITEMBWE**

**JUDGE**