



**REPUBLIC OF KENYA**

**IN THE HIGH COURT**

**AT MALINDI**

**DIVORCE CAUSE NO. 1 OF 2014**

**B. L.....PETITIONER**

**=VRS=**

**B. P. O.....RESPONDENT**

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

The Petitioner filed the Petition dated 14<sup>th</sup> January 2014 seeking to have her marriage with the Respondent dissolved. The Petitioner granted a Power of Attorney to PW1 L T to testify on her behalf. The special Power of Attorney was duly registered on 27<sup>th</sup> August 2015.

L T informed the court that the two parties got married in 2008. They were blessed with one child. The child was born on 17<sup>th</sup> March 2011 in Mombasa. The parties have been living separately for quite sometime. The Petitioner is seeking divorce and custody of the child.

The pleadings show that the parties got married on 3<sup>rd</sup> September 2008 before the Malindi District Commissioner. The Respondent was served with the Petition but did not file any response. There is an affidavit of service by Morris Ngonyo sworn on 31<sup>st</sup> March 2014. The Petitioner in her Petition contends that the Respondent deserted her and that she was denied conjugal rights for three (3) years. This occasioned her mental anguish.

Given the pleadings herein, it is clear that the marriage has broken down irretrievably. The parties have been living separately for quite some time. The Petitioner's allegations that she was deserted for three years has been established. The Respondent ignored the petition. This is a clear sign that he too would like the marriage to be dissolved.

Given the evidence herein, I do find that the Petitioner has proved her case. There is no hope for reconciliation. The marriage is hereby dissolved as prayed. There shall be joint custody of the child of the marriage as prayed in the Petition. Each party to meet their own costs.

Dated, signed and delivered at Malindi this 3<sup>rd</sup> day of **December** 2015.

**SAID J. CHITEMBWE**

**JUDGE**