



**REPUBLIC OF KENYA**

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

**DIVORCE CAUSE NO.194 OF 2013**

**J O O.....PETITIONER**

**VERSUS**

**F M M.....RESPONDENT**

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

The Petitioner and the Respondent were on 24<sup>th</sup> March 2001 under the **African Christian Marriage and Divorce Act**. The marriage was celebrated at the Nairobi Pentecostal Church, Valley Road in Nairobi. The marriage has been blessed with one (1) child. After the celebration of the said marriage, the Petitioner and the Respondent resided in various estates within the City of Nairobi. The Petitioner avers that since the celebration of the said marriage, the Respondent had treated him with cruelty. In particular, he accused the Respondent of withholding love and affection, being verbally abusive and of failure to provide him with emotional support. He deponed that the Respondent had neglected her duty to support him. He finally stated that the Respondent was guilty of desertion. He stated that in March 2006, the Respondent deserted the matrimonial home and has since then not returned to the said matrimonial home. It was for these reasons that the Petitioner is seeking to have the marriage dissolved.

The Respondent was served with the petition for divorce. She did not enter appearance. Neither did she file any papers in opposition to the petition for divorce. The Deputy Registrar of this court issued a certificate certifying this cause as suitable to be heard as an undefended divorce cause. During the hearing of this case, this court heard oral evidence adduced by the Petitioner. He essentially reiterated the contents of his petition for divorce. He testified that over the years their marital relationship had deteriorated resulting in the Respondent on several occasions deserting the matrimonial home. The final straw came in 2007 when they separated for the final time. He urged the court to grant his petition for divorce. This court has carefully considered the said evidence. It was clear from the evidence adduced by the Petitioner that indeed his marriage to the Respondent had irretrievably broken down. This court holds that the Petitioner established the ground of cruelty in his petition for divorce to the required standard of proof on a balance of probabilities. His testimony was uncontroverted. Further, he established the ground of desertion. He has been separated from the Respondent for a period of more than seven (7) years. It is apparent to the court that the Petitioner and the Respondent have each gone their separate ways. This court will therefore grant the petition for divorce.

In the premises therefore, the marriage between the Petitioner and the Respondent which was solemnized on 24<sup>th</sup> March 2001 at the Nairobi Pentecostal Church Valley Road, Nairobi is hereby dissolved. Decree nisi dissolving the said marriage is hereby issued. The decree nisi shall be made absolute thirty (30) days from the date of this judgment. There shall be no orders as to costs. It is so ordered.

**DATED AT NAIROBI THIS 10<sup>TH</sup> DAY OF MARCH, 2014**

**L. KIMARU**

**JUDGE**