



**REPUBLIC OF KENYA**

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

**DIVORCE CAUSE NO. 75 OF 2013**

**BETWEEN**

**W S A.....PETITIONER**

**AND**

**E J B.....RESPONDENT**

**JUDGEMENT**

1. Marriage was celebrated between the parties herein on 16<sup>th</sup> September 2003 at the District Commissioner's office at Vihiga. A certificate of marriage serial number *[particulars withheld]* was issued to them in accordance with the Marriage Act. The couple thereafter cohabited at Mumias, Kakamega, Kenya, as husband and wife. The couple was blessed with two issues – W J C and K M B, born in 1995 and 1997 respectively.
2. The petition in this matter was filed in court on 15<sup>th</sup> April 2013. The petitioner accuses the respondent of desertion and denial of conjugal rights. He is said to have deserted the matrimonial home sometime in 2001, never to come back. The desertion had the effect that the petitioner was not able to enjoy conjugal connection with the respondent.
3. The petition was served on the respondent and he did file appearance through counsel, but he did not file answer to the divorce petition. On 2<sup>nd</sup> May 2013 the Deputy Registrar certified that the matter proceeds for hearing as an undefended cause. As there is no reply, the petitioner's allegations, as made in the petition, remain uncontroverted.
4. The petitioner testified on 19<sup>th</sup> September 2013 and gave vent to the allegations made in her petition. No counter evidence was given by the respondent, and therefore the petitioner's story was not controverted.
5. It would appear to me that the marriage between the parties herein has irretrievably broken down. It would also appear to me that there has been no collusion between the petitioner and the respondent in the bringing of these proceedings. There is also no evidence that the petitioner has condoned the adultery.
6. I hereby dissolve the marriage celebrated between the petitioner and respondent on 16<sup>th</sup> September 2003. Decree *nisi* shall issue forthwith and shall be made absolute after thirty (30) days. There will be no orders as to costs.

DATED, SIGNED and DELIVERED at NAIROBI this 14<sup>th</sup> DAY OF March, 2014.

W. MUSYOKA

JUDGE