



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT MOMBASA**

**NULLITY OF MARRIAGE CAUSE NO. 7 OF 2014**

**S G. A. K.....PETITIONER**

**VERSUS**

**J A. N.....RESPONDENT**

**JUDGMENT**

The petitioner **S G A K** has filed this petition seeking the nullification of her marriage to the respondent **J A N**. The respondent was duly served with both the petition and a summons to enter appearance. He failed to enter appearance and also failed to file any reply to the summons. The matter therefore proceeded as an undefended cause.

The petitioner in her evidence told the court that she married the respondent on 23<sup>rd</sup> April, 2013 at the Registrar's Office in Mombasa. The original marriage certificate serial number 174716 is ample proof of the fact of the marriage. The petitioner goes on to state that after their marriage ceremony the respondent adamantly refused to consummate the marriage. She states that theirs was an arranged marriage and that the respondent indicated to her that he had no interest in her but had only married her to please his family. He rejected all advances from his wife and the marriage remains unconsummated. The respondent eventually returned to Britain where he resides and the petitioner went back to her parents' home.

As stated earlier the respondent filed no response to this petition. Therefore the evidence of the petitioner remains uncontroverted in all material aspects. This court has no reason to doubt the veracity of the petitioner. Her claim that her marriage to the respondent was never consummated has not been disputed. Section 73(1)(a) of the Marriage Act, 2014 provides that

**“73(1) A party to a marriage may petition the court to annul the marriage on the ground that -**

**(a) The marriage has not been consummated since its celebration.”**

Therefore non-consummation of a marriage provides valid grounds for the nullification of that marriage. This petition is allowed as per prayer (a) of the same. Costs to be met by the respondent.

**Dated and delivered in Mombasa this 16<sup>th</sup> day of July, 2014.**

**M. ODERO**

**JUDGE**

In the presence of:

No Appearance by either side

Court Clerk Mutisya