



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NAIROBI**  
**DIVORCE CAUSE NO 164 OF 2013**

J. N. K.....PETITIONER

VERSUS

E. W. M.....RESPONDENT

**JUDGMENT**

The petitioner filed the petition on 7<sup>th</sup> August, 2013 seeking the marriage between him and the Respondent be dissolved on grounds of desertion and particulars outlined in the supporting affidavit.

The petition was served on the respondent and an affidavit of service of 24<sup>th</sup> March, 2014 was filed. The petition sought on 23<sup>rd</sup> May, 2014 the Registrar's certificate that pleadings are in order and directions on the hearing of the matter. The matter was set down for hearing on the 25<sup>th</sup> September, 2014. As undefended cause.

The petitioner J N K gave testimony that he and the respondent were married on 21<sup>st</sup> June, 2004 at the Attorney General's Chambers in 2004. The certificate of marriage was produced as Exhibit I – Certificate of Marriage No. **[particulars withheld]** issued under the Marriage Act Cap 150 (repealed). They lived together for one (1) year and 2005 the Respondent deserted the matrimonial home. The Petitioner visited her parents eight times and there was no solution to the problem. He sent delegations to the family of his wife and that did not work either. The wife has not communicated or come back to the matrimonial home since then.

The Petitioner and Respondent had one issue of the marriage; a child called S W N born on 26th October, 2005. The respondent left with the child and he has never seen her and the mother again.

Therefore he sought the marriage dissolved on grounds of desertion so as to move on with his life. The court finds the petitioner has proved his case as per section 66 (6) (e) Marriage Act, 2013

- 1) The Marriage has irretrievably broken down due to the grounds of desertion as particularised in paragraph 6 of the Petition.
- 2) They have been separated since 2005 with no contact.
- 3) They have one child of the marriage who the Petitioner has never seen since 2005.
- 4) There is no claim to any property.

a) The matter proceeded as an undefended cause. The Court therefore orders dissolution of the marriage between the Petitioner and the Defendant under section 66 of the Marriage Act, 2013.

A decree nisi to issue forthwith.

A decree absolute to issue in 30 days.

b) There are no orders regarding claim of property or financial support.

c) There are no orders for upkeep and maintenance of the child of the marriage as the Petitioner has not seen the child since 2005.

If circumstances change then relevant application may be made by any of the parties.

d) Each party to bear its costs.

**DATED, SIGNED AND DELIVERED AT NAIROBI THIS 3RD DAY OF OCTOBER, 2014**

**MARGARET MUIGAI**

**JUDGE**