



**REPUBLIC OF KENYA**

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

**DIVORCE CAUSE NO. 193 OF 2012**

**D M W.....PETITIONER**

**VERSUS**

**M M N.....RESPONDENT**

**JUDGMENT**

The Petitioner and the Respondent were married on 13<sup>th</sup> January 1994 under the **Marriage Act**. The marriage was solemnized at the Registrar's Office, Nairobi. The marriage was not blessed with any issues. According to the Petitioner, after the celebration of the said marriage, he cohabited with the Respondent at their matrimonial homes in Kayole, Buruburu, and Pangani. This was until August, 2009 when the Petitioner relocated his business to Ngong Township. According to the Petitioner, he requested the Respondent to move with him to Ngong town where they intended to establish their matrimonial home. The Respondent declined. Since then, the Petitioner and the Respondent have lived separately. According to the Petitioner, the Respondent had committed the matrimonial offence of desertion. He averred that since August, 2009, the Respondent had deserted the matrimonial home and lived elsewhere in Nairobi. It was for this sole reason that the Petitioner was seeking to be divorced from the Respondent.

The Respondent was served with the notice of appearance together with a copy of the petition for divorce. She did not enter appearance and neither did she file any papers in answer to the petition for divorce. The Deputy Registrar of this court issued a certificate certifying this cause as suitable one to be disposed of by this court as an undefended divorce cause. During the hearing of this petition, this court heard oral evidence adduced by the Petitioner. He testified that he had been separated from the Respondent since August, 2009 when the Respondent declined to relocate with him to Ngong town where he had established his business. He stated that the marriage was not blessed with any children. The Petitioner told the court that all effort at reconciliation had not borne fruit. This left him with no option but to petition this court to be divorced from the Respondent.

This court has carefully considered the facts of this cause. It was clear to this court that indeed the marriage between the Petitioner and the Respondent had irretrievably broken down with no possibility of salvage. The Petitioner and the Respondent have been separated for more than four (4) years. All attempts at reconciliation had failed. It was apparent from the testimony of the Petitioner (which was uncontroverted), that the Petitioner and the Respondent have each moved on with their respective lives. The Petitioner proved the matrimonial offence of desertion to the required standard of proof.

In the premises therefore, the marriage celebrated between the Petitioner and the Respondent at the Registrar's Office in Nairobi on 13<sup>th</sup> January 1994 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.

**DATED, SIGNED AND DELIVERED ON 1<sup>ST</sup> DAY OF NOVEMBER 2013.**

**L. KIMARU**

**JUDGE**