



**REPUBLIC OF KENYA**

**IN THE HIGH COURT**

**AT MALINDI**

**DIVORCE CAUSE NO. 15 OF 2014**

**S. M.....PETITIONER**

**=VRS=**

**J. M.....RESPONDENT**

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

In the Petition dated 15<sup>th</sup> August 2014 the Petitioner is seeking to have his marriage with the Respondent dissolved. The Respondent was served but did not respond to the Petition.

The Petitioner's evidence is that they got married on 3<sup>rd</sup> January 2007. They only stayed together for six months. The marriage was conducted before the Malindi District Commissioner. It is his evidence that the Respondent engaged in taking drugs and he tried to rehabilitate her but all in vain. He was advised to take the Respondent to Italy which he did. The Respondent caused problems while in Italy and he returned her to Kenya.

She attacked him with a knife and the matter was reported to the police. The Respondent ran away from the matrimonial home and has not been seen for eight years now. The marriage was not blessed with any children.

From the pleadings and evidence on record, I am satisfied that the marriage between the parties has broken down irretrievably. The parties have been living separately for over eight years. The Respondent deserted the matrimonial home and has not been seen for eight years. I do find that the Respondent deserted the Petitioner. The Respondent's habit of taking drugs must have caused the Petitioner mental stress and hardship. The marriage is automatically dissolved under the Kenyan law.

In the end, I do find that the Petitioner has proved his case. The Respondent deserted the matrimonial home since 2007 and has not been seen ever since. She has not bothered to communicate. The marriage only exists on papers. The marriage between the Petitioner and the Respondent is hereby dissolved. A decree nisi is issued. Each party to meet their own costs.

Dated, signed and delivered at Malindi this 8<sup>th</sup> day of **December** 2015.

**SAID J. CHITEMBWE**

## **JUDGE**



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