



**REPUBLIC OF KENYA**

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

**DIVORCE CAUSE NO. 67 OF 2001**

**J.K.W .....PETITIONER**

**VERSUS**

**D.N.K ..... RESPONDENT**

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

The petitioner, **J.K.W**, petitioned the court for an order to dissolve his marriage to **D.N.K**, on the ground of desertion

The petitioner and respondent were first married to each other under Kikuyu customary Laws in 1988, and subsequently on 28th September, 1991, they converted their customary Law marriage to statutory.

The petitioner produced a certified copy of the marriage certificate as Ex.1. They have 2 children as shown in paragraph 6 of the petition. They lived in the petitioner's home in Ol Kalou until the respondent's desertion in 1997.

The petitioner recalled that on 16th December, 1997 he traveled to Nairobi from Ol Kalou at night, to bring his car for service. He arrived in the morning and went back the same day. When he reached home, he found his wife missing. She had also taken all properties from the matrimonial home.

The petitioner continued living in the same house, but searched for his wife, and after one week, he went to look for at her mother's house, in Kayole estate in Nairobi. She was not there, but their two children were there. No information was given to him of her whereabouts, so he left. He did not take the children as he said that he had not discussed the matter of their custody with his wife.

The petitioner lamented that he has never seen or heard of his wife since that date when he left her in the house in Kayole, as he went to Nairobi.

He prayed the court to award him a divorce order as his wife has deserted him. As they had not quarreled, he did not know why she left him. He confirmed that there had never been any proceedings regarding their marriage. He also confirmed that he has not condoned or connived at his wife's act of desertion.

The court records show that service of the petition was effected on the respondent by substituted service – i.e. advertisement in the newspaper, but she did not respond. The Deputy Registrar issued a

certificate to the effect that the pleadings and proceedings were in order and the divorce cause was certified undefended.

From the evidence, which I have considered, I am satisfied that the respondent deserted the petitioner with no just cause.

I therefore grant an order to dissolve the marriage of the petitioner to the respondent.

The petitioner did not pray for the custody of the children of the marriage, so I will not make any order. Finally, I order the petitioner to pay his own costs occasioned by these proceedings.

The decree nisi will issue straightaway today. The same will become absolute within one month from today.

Dated at Nairobi this 11th day of December, 2002.

**JOYCE ALUOCH**

**HIGH COURT JUDGE**



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