

REPUBLIC OF KENYA

THE HIGH COURT OF KENYA

FAMILY DIVISION

DIVORCE CAUSE NO. 74 OF 2013

D O O1.....PETITIONER

VERSUS

D O O2.....RESPONDENT

JUDGMENT

1. DOO1 the petitioner in this matter filed a petition against the respondent DOO2. In her petition dated the 3/4/13 she states that on 8/12/09 she and the respondent married under the Marriage Act at Cap 150 at the Registrar's office at Nairobi in Kenya. They cohabited in Nairobi and have no issues of the marriage.

2. That currently they are living separately as the respondent deserted the matrimonial home one month after the marriage on the 8/12/09 to an unknown destination. That he has not communicated with her and this has negatively affected her feelings and is undermining her to her friends and relatives. That the respondent has denied her conjugal rights. She therefore seeks that the marriage between her and the respondent be dissolved and that the respondent bears the costs of these proceedings.

3. The cause proceeded as an undisputed cause. The petitioner testified in court and reiterated the facts as deponed in her petition. She told court that it is not the kind of marriage she expected or desired and that she has been humiliated as everyone knows she is married. She testified that she has not pressed on prosecuted his petition in collusion with the respondent.

4. The petitioner's grounds for dissolving her marriage with the respondent is desertion and cruelty. Both are grounds provided for in section 8 of the Matrimonial Cause Act. The petitioner case is a very sad one, the respondent her husband deserted her a month after their marriage and he has not returned. That is indeed cruel as he subject her to emotional distress humiliation and embarrassment. She testified that it is not the kind of marriage she expected. People get married because they love each other and for companionship. The petitioner has proved the grounds of desertion and cruelty. Their marriage is no more. She waited from 2009 and filed this petition in 2013, she has indeed persevered. She told court that there is no chance of reconciliation as the respondent has not communicated or returned to her since she deserted.

5. The marriage between the petitioner and the respondent celebrated on 8th December 2009 at the Registrar Officer at Nairobi is therefore dissolved. A decree *nisi* to issue and to be made absolute within 30 days. No order as to costs. It is so ordered.

Dated, signed and delivered this 31st day of May 2016

R. E. OUGO

JUDGE

In the Presence of:

.....For the Petitioner

.....For the Respondent

Charity Court Clerk