

REPUBLIC OF KENYA

IN THE HIGH COURT

AT NAIROBI

DIVORCE CAUSE NO. 68 OF 2015

M T A M.....PETITIONER

VERSUS

G K J.....RESPONDENT

JUDGMENT

1. M T A M hereinafter referred to the petitioner filed a petition dated 16th April 2015 seeking to have their marriage with the respondent G K J celebrated on the 8th of January 2011 dissolved. His ground for divorce is that the respondent deserted the matrimonial home from 30th April 2013 with no valid reason and has never returned and that the tenure of co-habitation between them was characterized by in-fighting abuse and lack of conjugal rights.

2. He depones that the petition is not presented in collusion with the respondent nor has the petitioner in any way connived or condoned the respondent’s desertion. The cause proceeded as an undefended cause. On the 21st of April the petitioner testified that they got married in January 2011 as evidence in the marriage certificate and stayed in south B Mugoya. They have no children. After their marriage they had many issues and the respondent would call her family who would threaten him and they fought. That they were last together in 2013 April when the respondent left the Matrimonial home and has not returned since then. That he has made efforts to get her back but she went away with all her thing. He testified that it has been a stressful time for him and now he seeks dissolution of the marriage.

3. Section 8 (1) (b) of the Matrimonial Causes Act Cap 152 provides that **“a petition for divorce may be presented to the court either by the husband or the wife on the ground that the respondent deserted the petitioner without cause for a period of at least three years immediately preceding the presentation of the petition”**.

4. It’s the petitioner’s evidence that the respondent deserted their matrimonial home in April 2013 and has not returned since then. This evidence was not challenged. The marriage between the petitioner and the respondent has irretrievably broken down for they have been separated for 3 years with no chances of reconciliation. I therefore dissolve the marriage between the petitioner and the respondent celebrated on the 8th of January 2011. A decree *nisi* to issue and to be made absolute within 30 days. No orders 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