

REPUBLIC OF KENYA

IN THE HIGH COURT AT MALINDI

DIVORCE CAUSE NO. 9 OF 2014

R S MPETITIONER

VERSUS

P H ORESPONDENT

JUDGEMENT

The Partitioner is seeking dissolution of her marriage with the Respondent. The petition was not defended. The Petitioner testified that they got married on 15th august, 2008. They were blessed with one child. She contends that the Respondent has decided not to work and since 2011 he has not returned home after travelling to Nairobi for a wedding. It is the Petitioner's evidence that the Respondent was working but simply decided to leave employment. She has tried to assist him to get employment but he has refused.

It is her evidence that since 2011 the Respondent has been away and has not provided her and the child with any support. She would like to have custody of the child. The Respondent was served personally but told her to proceed with her divorce case.

The main reasons being alleged for the divorce is dissection and cruelty. It is clear from the Petitioner's evidence that since 2011 the Respondent has not been living with the Petitioner. His whereabouts is unknown. He was served but elected not to defend the Petition. There is no evidence to counter that of the Petitioner. From the circumstances of the case, I am satisfied that the marriage has irretrievably broken down. There is no hope for reconciliation. The parties got married in 2008 and in 2011 the Respondent walked out of the marriage. I do find that the Petitioner has proved her case. This marriage is hereby dissolved on the grounds of desertion. The Petitioner shall have custody of the only child of the marriage as prayed. The prayers for maintenance and costs are not granted as the Plaintiff's evidence is that the Respondent does not work. A Decree Nisi to issue.

Delivered and dated at Malindi this **18th** day of **March, 2015**.

Said J. Chitembwe

JUDGE