

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

DIVORCE CAUSE NO. 184 OF 2013

J CPETITIONER

VERSUS

B G..... RESPONDENT

JUDGMENT

1. The petitioner and the respondent got married on 24/8/2007 at the Registrars of Marriages office in Nairobi. Thereafter they cohabited as husband and wife in their matrimonial home [*particulars withheld*], Miotoni Road, Karen, Nairobi. The petitioner is a Chief Executive Officer at [*particulars withheld*] in Nairobi while the respondent is a house wife. The petitioner avers that the respondent deserted him in 2009.
2. The petitioner particularized the desertion as follows that; he is a busy man whose work entails a lot of travelling and when the respondent brought issue with his absence as the same was causing a strain on their marriage the respondent could not communicate and appeared to have lost interest in the marriage as the couple had no issues of the marriage. The desertion caused by serious difference arose from work related factors and the respondent's absence from home widened the gap. That for 3 years preceding this petition the parties have not cohabited as husband and wife. The parties have irreconcilable differences due to breakdown in communication and the different lifestyles the parties are living and all efforts attempting reconciliation have failed and the marriage cannot be salvaged. The irreconcilable differences and incompatibility of the parties has necessitated the petition herein. The petition seeks the dissolution of the marriage.
3. The respondent despite being served did not enter appearance. The Registrar on 12/2/2015 issued a certificate that the petition proceed as undefended.
4. The matter came up for hearing on 16th April 2015. The petitioner reiterated the averments as laid down in his petition. That the respondent left the matrimonial home in 2009 and they have not been able to reconcile despite many efforts on his part and the respondent has also not made any attempts to return to the matrimonial home.
5. The petitioner seeks a divorce on ground of desertion. Desertion is a ground of divorce under Section 8 of the Matrimonial Act (now repealed) and section 66 of the Marriage Act 2014. The petitioner's evidence was not controverted. It was his evidence that the parties differences emerged due to his busy work and there was communication breakdown between the parties which widened the gap and led them to separate in 2009. It is evident that the marriage between the parties has irretrievably broken down and there is no possibility of reconciliation. There is no evidence of collusion between the parties in bringing this petition as such this Court dissolves the marriage between the Petitioner and the Respondent celebrated on the 24/8/2007. A *decree nisi* to issue forthwith and to be made absolute within 30 days. No orders as to cost. It is so ordered.

Dated, signed and delivered this 29th day of May 2015.

R. E. OUGO

JUDGE

In the presence of:

..... **For the Petitioner**

..... **For the Respondent**

..... **Court Clerk**