

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

DIVORCE CAUSE NO. 32 OF 2014

BETWEEN

C MPETITIONER

AND

J O MRESPONDENT

JUDGEMENT

1. The Petitioner then a spinster and the Respondent then a bachelor were married on 14th May 2003 at the Registrar’s Office in Nairobi. A certificate of marriage serial Number *[particulars withheld]* was issued to them in accordance with the **Marriage Act (Cap 150 Laws of Kenya)**. The couple thereafter cohabited in Umoja Estate in Nairobi. They are domiciled in Kenya and have no children of the marriage.
2. The Petition filed on 12th February 2014 is premised on grounds of desertion of the Petitioner by the Respondent as particularised in the Petition. The Petitioner stated that she and the Respondent cohabited for only two years after which he moved to Kisii and has never visited the matrimonial home since then. The Petitioner states that numerous efforts to trace the Respondent in order to communicate with him have failed. His phone went unanswered and thereafter went out of use. That the Respondent does not visit the Petitioner, neither does he provide for her upkeep, maintenance or general livelihood. That she solely meets all the costs of running and maintaining the household. The Petitioner further avers that, the Respondent has denied her the enjoyment of her conjugal rights from 2005 to date. This has caused her untold frustration, mental distress and anguish.
3. That due to the aforesaid acts of active desertion, the Petitioner strongly feels that they cannot continue to hold out as husband and wife with the Respondent. She, has therefore, asked the court to dissolve the marriage between her and the Respondent. She confirms that this Petition has not been presented or prosecuted in collusion with the Respondent, nor has she connived or condoned the desertion acts complained of. She also certifies that there have been no previous proceedings filed regarding the marriage.
4. On 2nd October, 2014 the Deputy Registrar certified that the matter was suitable to proceed for hearing as an undefended cause for one day in Nairobi. The Respondent was served with the process via classic courier dated 2nd July 2014 and he confirmed receipt to the Petitioner’s Advocate on record. He however did not file an answer to the Petition or a cross-Petition. At the hearing on 7th May 2015, Mr. Mwangambo Counsel for the Petitioner told the court that it was difficult to procure his client to attend court since she had since moved to the United States of America. He asked the court to rely on her evidence in the supporting affidavit.
5. I have perused the grounds of the petition and the evidence of the Petitioner in the supporting affidavit sworn on 14th April 2015. From the foregoing it is evident that the marriage celebrated between the parties herein on 14th May 2003 has irretrievably broken down and cannot be salvaged. In the premise I order as follows:
 - a. That the marriage celebrated between the Petitioner and Respondent at the Registrar’s office in

Nairobi on 14th May 2003, is hereby dissolved.

- b. That Decree nisi dissolving the said marriage is hereby issued to be made absolute thirty (30) days from the date of this judgment.
- c. There shall be no orders as to costs.

SIGNED DATED and DELIVERED in open court this 22nd day of May 2015.

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L. A. ACHODE

JUDGE

In the presence ofAdvocate for the Petitioner

In the presence ofAdvocate for the Respondent