



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
DIVORCE CAUSE NO. 88 OF 2012
BETWEEN
J O K.....PETITIONER
AND
C W G.....RESPONDENT

JUDGEMENT

1. The petitioner in this matter married the respondent on 20th March 2002 at a ceremony at the Don Bosco Shrine Catholic Church, Nairobi. A certificate of marriage No. *[particulars withheld]* was duly issued, copy of which is attached to the petition filed in court in this cause. The couple were blessed with one issue called, L B K *[minor]*, born on 9th June 2007.
2. The petition herein was filed in court on 16th May 2012. In it the petitioner accuses the respondent of desertion and denial of conjugal rights.
3. The petition and notice to appear were served on the respondent, and she entered appearance, and filed an answer to the petition. She avers in the answer that she would not be contesting the petition. She states that the petitioner should not be granted custody of the only issue of the marriage as he is not able to take care of him.
4. The matter was cleared for hearing, and was certified to proceed as a defended cause, even though the respondent had indicated that she would not be contesting the divorce. The matter was placed before me for hearing on 4th July 2013 when the petitioner testified.
5. The petitioner told the court that during the course of the marriage the parties had issues, which culminated in the parties sleeping in separate rooms. They had numerous arguments which led to their separation. All efforts to reconcile them failed. Eventually the respondent deserted the matrimonial home in 2006, and since then cohabitation has not resumed. He has therefore not enjoyed conjugal connection with her since then.
6. It is clear from the evidence that there is no marriage. There is clearly no love lost between the parties. The marriage exists only on paper. It appears to me that the marriage between the parties has completely broken down. It would also appear to me that there has been no collusion between

the petitioner and the respondent in bringing these proceedings. There is also no evidence that the petitioner condoned the desertion.

7. I will allow the petition dated 5th March 2012, and dissolve the marriage celebrated between the petitioner and respondent on 20th March 2002. Joint custody of the only child of the marriage is awarded to both parties. Each party shall bear their own costs.
8. Decree *nisi* shall issue forthwith, to be made absolute after thirty (30) days.

DATED, SIGNED and DELIVERED at NAIROBI this 31st DAY OF January, 2014.

W. MUSYOKA

JUDGE