



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**

**DIVORCE CAUSE NO. 124 OF 2013**

**D J A.....PETITIONER**

**VERSUS**

**F A J.....RESPONDENT**

**J U D G M E N T**

The Petitioner and the Respondent were on 24<sup>th</sup> December 2007 married at the Registrar's Office in Kisumu. The marriage was celebrated under the **Marriage Act**. The marriage was blessed with one issue born on 22<sup>nd</sup> October 2003. The Petitioner is a British. He is also a citizen of Ireland. The Respondent is a Kenyan citizen. After the celebration of the said marriage, the Petitioner and the Respondent cohabited together as husband and wife in Kenya. According to the Petitioner, the Respondent left the matrimonial home soon after the celebration of the marriage. The Respondent relocated to Geneva Switzerland due to work commitments. The Respondent averred that since early 2008 when the Respondent left the matrimonial home, she had not returned to the said matrimonial home. Despite request by the Petitioner for the Respondent to return to the matrimonial home, the Petitioner avers that the Respondent had failed to pay heed to his plea. The Petitioner also accused the Respondent of treating him with cruelty. In particular, he alleged that the Respondent had willingly refused to join him in Kenya. He complained that the Respondent had denied him his conjugal rights, was overbearing, inconsiderate and had withheld her love and affection to him. It was for the above reasons that the Petitioner formed the view that his marriage to the Respondent had irretrievably broken down with no possibility of salvage. He asks the court to grant his petition for divorce.

The Respondent was served with a copy of the petition for divorce together with a notice requiring her to enter appearance. She did not enter appearance. Neither did she file an answer to the petition. The Deputy Registrar of this court issued a certificate certifying that this was a suitable divorce cause to be disposed of as an undefended cause. During the hearing of this petition, this court heard oral evidence adduced by the Petitioner. In his evidence, the Petitioner essentially reiterated the contents of his petition for divorce. After carefully considering the facts of this case, it was clear to this court that the Petitioner had indeed established that the Respondent committed the matrimonial offence of desertion. The Respondent left the matrimonial home a few months after the celebration of their marriage. It is now five (5) years since the Respondent left the matrimonial home. According to the Petitioner, the Respondent told him that she had no intention of returning to the matrimonial home. In the premises therefore, it is clear that the Petitioner proved his case that his marriage to the Respondent had irretrievably broken down with no possibility of salvage.

This court will allow the petition for divorce. The marriage between the Petitioner and the Respondent which was solemnized on 24<sup>th</sup> December 2007 at the Registrar's Office in Kisumu is hereby dissolved. Decree nisi dissolving the said marriage is hereby issued. The decree nisi shall be made absolute thirty (30) days from the date of this judgment. There shall be no orders as to costs.

**DATED AT NAIROBI THIS 20<sup>TH</sup> DAY OF MARCH, 2014**

**L. KIMARU**

**JUDGE**