

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

DIVORCE CAUSE NO. 218 OF 2013

S M M.....PETITIONER

VERSUS

A P B.....RESPONDENT

J U D G M E N T

The Petitioner and the Respondent were on 14th November 2012 married at the Registrar's Office in Nairobi. The marriage was celebrated under the **Marriage Act**. After the celebration of the said marriage, the Petitioner and the Respondent cohabited together as husband and wife in Nairobi. The marriage has not been blessed with any issues. According to the Petitioner, the Respondent deserted from the matrimonial home in 2003. Since then, he has not returned to the said matrimonial home. The Petitioner avers that since then no conjugal relations between her and the Respondent had taken place. The Petitioner was of the view that the Respondent's refusal to return to the matrimonial home meant that the marriage had irretrievably broken down. In the premises therefore, the Petitioner urged the court to grant her petition for divorce and dissolve the marriage.

The Respondent was served with a copy of the petition for divorce together with a notice requiring him to enter appearance. He did not enter appearance. Neither did he file an answer to the petition. The Deputy Registrar of this court issued a certificate certifying that this was a suitable cause to be disposed of as an undefended divorce cause. During the hearing of the cause, this court heard oral evidence adduced by the Petitioner. She essentially reiterated the contents of her petition for divorce. She told the court that the Respondent currently resides in Australia. She stated that the Respondent had indicated that he does not wish to reside in Kenya. This court has considered the evidence adduced by the Petitioner in this cause. It was clear to the court that the marriage between the Petitioner and the Respondent has indeed irretrievably broken down with no possibility of salvage. The Petitioner and the Respondent only lived together for a period of less than one (1) year. They have since been separated for more than ten (10) years. Efforts at reconciliation have proved unsuccessful. According to the Petitioner, the Respondent has no intention of returning to the matrimonial home. The Petitioner established the matrimonial offence of desertion. In the premises therefore, this court will grant petition for divorce.

The marriage celebrated at 14th November 2002 at the Registrar's Office in Nairobi between the Petitioner and the Respondent 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 20TH DAY OF MARCH, 2014

L. KIMARU

JUDGE