



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI
DIVORCE CAUSE NO. 125 OF 2010

BETWEEN

J W N.....PETITIONER

AND

A M M.....RESPONDENT

JUDGEMENT

1. Marriage was celebrated between the parties herein sometime in 9th June 2003 at the SDA Church, Nairobi. A certificate of marriage serial number *[particulars withheld]* was issued to them in accordance with the Marriage Act. The couple thereafter cohabited at Mlolongo (Athi River), Kenya, as husband and wife. The couple was blessed with two (2) issues.
2. The petition in this matter was filed in court on 5th October 2010. The petitioner accuses the respondent of desertion. She alleges that the respondent left the matrimonial home on 21st September 2008 deserted the petitioner and the issues of the marriage never to come back.
3. The petition was served on the respondent on 2nd November 2010 and there is an affidavit of service to that effect, but he did not file answer to the divorce petition. On 9th July 2011 the Deputy Registrar certified that the matter proceeds for hearing as an undefended cause. As there is no reply, the petitioner's allegations, as made in the petition, remain uncontroverted.
4. The petitioner testified on 3rd November 2011 and 10th October 2013 and gave vent to the allegations made in her petition. She testified that the respondent deserted the matrimonial home in 2008 and never returned. No counter evidence was given by the respondent, and therefore the petitioner's story was not controverted.
5. It would appear to me that the marriage between the parties herein has irretrievably broken down. It would also appear to me that there has been no collusion between the petitioner and the respondent in the bringing of these proceedings. There is also no evidence that the petitioner has condoned the adultery.
6. Having taken into account the evidence before me I hereby make the following orders-
 - a. That the marriage celebrated between the petitioner and respondent on 9th June 2003 is hereby dissolved. Decree *nisi* shall issue forthwith and shall be made absolute after thirty (30) days;

b. That matters touching on custody and maintenance of the children of the marriage shall abide the decision of the Children's Court in Children's Cause No. 511 of 2009; and

c. There will be no orders as to costs.

DATED, SIGNED and DELIVERED at NAIROBI this 25th DAY OF April, 2014.

W. MUSYOKA

JUDGE

In the presence of advocate for the petitioner.