



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI

DIVORCE CAUSE NO. 189 OF 2013

BETWEEN

M K K.....PETITIONER

AND

C N M.....RESPONDENT

JUDGEMENT

1. Marriage was celebrated between the parties herein on 6th March 1999 at the Mashariki Kingdom Hall, Nairobi, under the Marriage Act, Cap. 150, Laws of Kenya. The marriage certificate issued serial number *[particulars withheld]* is attached to the petition. The couple thereafter cohabited at Athi River in Kenya, as husband and wife. The couple was blessed with issue – N N, born on 3rd April 1997.
2. The petition in this matter was filed in court on 29th August 2013. The petitioner accuses the respondent of desertion and denial of conjugal rights. The particulars being that the respondent had deserted the petitioner for the last thirteen years, during which period the petitioner did not enjoy conjugal rights with her.
3. The petition was served on the respondent on 11th October 2013, as evident from the affidavit of service sworn on 11th October 2013 by Josphat Simion Mutunga. She did not enter appearance nor file an answer to the petition nor a cross-petition. On 13th February 2014 the matter was cleared by the registrar to proceed for hearing as an undefended cause.
4. As there is no reply to the petition, the petitioner's allegations, as made in the petition, remain uncontroverted.
5. The petitioner testified on 8th May 2014 and gave vent to the allegations made in his petition. No counter evidence was given by the respondent, and therefore the petitioner's story was not controverted.
6. 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 desertion.

7. The orders that I am disposed to make are as follows:-

- a. That I hereby dissolve the marriage celebrated between the petitioner and respondent on 6th March 1999;
- b. Decree *nisi* shall issue forthwith, and may be made absolute after thirty (30) days.
- c. There will be no orders as to costs.

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

W. MUSYOKA

JUDGE