

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

DIVORCE CAUSE NO. 35 OF 2013

BETWEEN

P B.....PETITIONER

AND

S V.....RESPONDENT

JUDGEMENT

1. Marriage was celebrated between the parties herein on 5th April 2003 at the Consolata Catholic Church in Nairobi. A certificate of marriage serial number *[particulars withheld]* was issued to them in accordance with the Marriage Act. The couple thereafter cohabited at *[particulars withheld]* House in Malindi, Kenya, as husband and wife. The couple was not blessed with issue.

2. The petition in this matter was filed in court on 13th February 2013. The petitioner accuses the respondent of desertion. She is said to have deserted the matrimonial home in May 2008 never to come back and the parties have lived apart since.

3. The petition was served on the respondent and she did file an acknowledgement of service dated 28th February 2013 signed by her. She however did not file appearance nor file answer to the divorce petition nor a cross-petition. On 25th April 2013 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 29th 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.

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 desertion alleged in the petition and proved in court.

6. I hereby dissolve the marriage celebrated between the petitioner and respondent on 5th April 2003. Decree *nisi* shall issue forthwith and shall be made absolute after thirty (30) days. There will be no orders as to costs.

DATED, SIGNED and DELIVERED at NAIROBI this 14th DAY OF August, 2014.

W. MUSYOKA

JUDGE

In the presence of advocate for the applicants.

