



**REPUBLIC OF KENYA**

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

**DIVORCE CAUSE NO. 216 OF 2013**

**Between**

**H K R.....Petitioner**

**And**

**W C B.....RESPONDENT**

**JUDGMENT**

1. Marriage was celebrated between the parties herein on 29<sup>th</sup> September 2009 at the office of the Registrar of Marriages, Nairobi. A certificate of marriage serial number *[particulars withheld]* was issued to them in accordance with the Marriage Act. The couple thereafter cohabited at Riruta Satellite, Nairobi, Kenya, as husband and wife. The couple was blessed with one issue – A K.
2. The petition in this matter was filed in court on 1<sup>st</sup> October 2013. The petitioner accuses the respondent of desertion. The particulars of desertion are that the the respondent left the matrimonial home on 18<sup>th</sup> August 2010 never to come back.
3. There is an affidavit of service sworn on 27<sup>th</sup> November 2013, attesting to the service of the divorce process on the respondent on 15<sup>th</sup> November 2013, through her lawyers Messrs Ndege & Company, Advocates, on her instructions. She never appeared nor responded to the petition.
4. On 23<sup>rd</sup> January 2014 the Deputy Registrar certified that the matter proceeds for hearing as an undefended cause. There is no reply to the petition and therefore the petitioner’s allegations, as made in the petition, remain uncontroverted.
5. The petitioner testified on 3<sup>rd</sup> July 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. He testified as to the efforts that he made to reach out to the respondent in an effort to obtain reconciliation, which were rebuffed by the respondent. The matrimonial offence of desertion was therefore established from the evidence tendered by the petitioner.
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. I am disposed to make the following orders: -
  - a. That I hereby dissolve the marriage celebrated between the petitioner and respondent on 29<sup>th</sup> September 2009;
  - b. That decree *nisi* shall issue forthwith and shall be made absolute after six (60) days; and
  - c. That there will be no orders as to costs.

**DATED, SIGNED and DELIVERED at NAIROBI this 24<sup>th</sup> DAY OF October 2014.**

**W. MUSYOKA**

**JUDGE**