

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

DIVORCE CAUSE NO. 181 OF 2012

BETWEEN

N N.....**PETITIONER**

AND

R W N.....**RESPONDENT**

JUDGEMENT

1. Marriage was celebrated between the parties herein on 2nd January 1982 at the Office of the Registrar of Marriages 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 Eastleigh, Buru Buru and Ngumo Estates in Nairobi, Kenya, as husband and wife. The couple was blessed with issue, two children, N N (born 1982) and K N (born 1983).
2. The petition in this matter was filed in court on 3rd October 2012. The petitioner accuses the respondent of desertion. He is said to have left the matrimonial home sometime in 1996 never to come back.
3. The petitioner seeks in the main dissolution of the marriage.
4. The petition was served on the respondent and she did file appearance through counsel on 8th November 2012. She filed a reply to the petition on 29th November 2012. She denies all the allegations made in the petition, and accuses the petitioner of having chased her away from the matrimonial home. She further accuses the petitioner of having led an untruthful and treacherous life during the marriage.
5. On 7th February 2013 the Deputy Registrar certified that the matter proceeds for hearing as a defended cause.
6. The parties testified on 25th September 2014 and gave vent to the allegations made in their pleadings, and were cross-examined. There is no cross-petition on record, I can only therefore make orders for the dissolution of the marriage. I am satisfied from the evidence on record that the respondent is guilty of desertion.
7. It would appear to me that the marriage between the parties herein has irretrievably broken down; the parties have been living separately since 1996. It would also appear to me that there has been no collusion between the parties in the bringing of these proceedings. I am also satisfied that the petitioner did not condone the matrimonial offence of desertion.
8. At the hearing the respondent made a pitch for return to her by the petitioner of property that she had allegedly acquired during the marriage. There is nothing in her pleadings about this. She did not file a cross-petition and there are no details in her pleadings about the alleged property. I agree with counsel for the petitioner that there is no basis for grant of the said plea.

9. I hereby dissolve the marriage celebrated between the petitioner and respondent on 2nd January 1982. Decree *nisi* shall issue forthwith, to be made absolute after thirty (30) days. There will be no orders as to costs.

DATED, SIGNED and DELIVERED at NAIROBI this 19th DAY OF December 2014.

W MUSYOKA

JUDGE