

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

DIVORCE CAUSE NO. 76 OF 2012

BETWEEN

R A M.....PETITIONER

AND

C L M.....RESPONDENT

JUDGEMENT

The petitioner in this matter married the respondent on 8th June 1991 at a ceremony at Christ Church in the Parish of (withheld) United Kingdom. A certificate of marriage was duly issued, copy of which is attached to the petition filed in court in this cause. The couple thereafter cohabited at (withheld) in Kenya. There are three issues of the marriage – A L (born in 1993), T N (born in 1995) and T G (minor).

The petition herein was filed in court on 27th April 2012. In it the petitioner accuses the respondent of desertion. The respondent is said to have deserted the matrimonial home on 6th January 2009, never to come back. The particulars of desertion are itemised in the petition – no reasonable cause for the desertion, left without disclosing destination and never resuming cohabitation, staying away for three years, lack of love and care and complete abandonment.

The petition and the notice to appear were served on the respondent on an unknown date as there is no affidavit of service on record. The respondent did appear on 18th July 2012 through the law firm of Judy Thongori. She did not file an answer to the petition, and therefore the cause was cleared by the Deputy Registrar on 22nd November 2012 to proceed as an undefended cause.

The petitioner testified on 11th April 2013. He complained that the respondent left the matrimonial home in October 2008, and again on 6th January 2009 and never came back. There were no goodbyes, she did not say where she was going, and the petitioner did not know where she went. Since then the parties have not spent time together as husband and wife. She now lives at (particulars withheld) with another man. For all practical purposes there is no marriage as all efforts to reconcile have failed. This evidence was uncontroverted.

It appears to me that the marriage between the parties has completely broken down. It would also appear to me that there has been no collusion between the petitioner and the respondent in bringing these proceedings. There is also no evidence that the petitioner has condoned the cruelty and desertion.

I will allow the petition dated 27th April 2012. The marriage celebrated between the petitioner and respondent on 8th June 1991 is hereby dissolved. Decree *nisi* shall issue forthwith, to be made absolute after thirty (30) days. Joint custody of the minor child of the marriage is granted to the parties. There will be no orders as to costs.

DATED, SIGNED and DELIVERED AT NAIROBI THIS 27th DAY OF June 2013.

W.M. Musyoka

JUDGE