

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

DIVORCE CAUSE NO. 66 OF 2012

BETWEEN

D R. S. O.....PETITIONER

AND

R S B.....RESPONDENT

JUDGEMENT

Marriage was celebrated between the parties herein on 16th February 2011 at the Serena Hotel in Nairobi under special licence. A certificate of marriage serial number[.....] was issued to them in accordance with the Marriage Act. The couple did not cohabit as husband and wife. The couple was not blessed with issue.

The petition in this matter was filed on 16th April 2012. This is not a petition for divorce, but for dissolution of the marriage. The petitioner alleges that shortly after celebration of the marriage the respondent suddenly left for the United States of America, claiming that something had come up which required him to travel home immediately. He left before they had gotten a chance to consummate the marriage. He never came back.

It would appear that the petition was served on the respondent as there is an appearance on his behalf by a firm of advocates. He did not however file defence. The Deputy Registrar certified on 27th September 2012 that the matter proceeds for hearing as an undefended cause. As there is no answer to the petition, the petitioner's allegations remain uncontroverted. The petitioner breathed life to her petition when she testified on 7th March 2013.

It would appear to me from the papers filed in court and the oral evidence given in court on 7th March 2013 that the alleged marriage between the parties herein is a nullity as it was never consummated. It would also appear to me that the petitioner was not in any way contributory to the non-consummation of the marriage.

As I am satisfied that the marriage celebrated between the petitioner and the respondent was not consummated. I will decree that the marriage celebrated between the petitioner and respondent on 16th February 2011 is null and void. Decree *nisi* shall issue forthwith and shall be made absolute after thirty (30) days. There will be no orders on costs.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 20th DAY OF June, 2013.

W. MUSYOKA

JUDGE