

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

DIVORCE CAUSE NO. 150 OF 2012

BETWEEN

C A.....PETITIONER

AND

C A.....RESPONDENT

JUDGEMENT

Marriage was celebrated between the parties herein on 10th June 1998 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 cohabited at Nairobi, Kenya, and Maryland, United States of America, as husband and wife. The couple was blessed with issue – M (minor) and M(minor), born in 2000 and 2008, respectively. The parties are resident in the United States of America, but domiciled in Kenya.

The petition in this matter was filed on 15th August 2011. The petition is for dissolution of marriage. The petitioner alleges that the respondent is guilty of desertion. The parties were in Maryland, Baltimore, in August 2008. During the course of that month the petitioner got employment in Connecticut and moved there, but the respondent for no good cause refused to join him there. She has remained separated from him since then. As a consequence of the said separation, the petitioner and the respondent have not had conjugal relations.

The petition and a notice to appear were served on the respondent on 10th January 2013, through Aramex Courier Services. There is an affidavit of service to that effect sworn on 20th February 2013. She did not however file appearance or answer to the petition. The Deputy Registrar certified on 1st April 2013 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 his petition when he testified in court on 9th May 2013.

It would appear to me from the papers filed in court and the oral evidence given in court on 9th May 2013 that the alleged marriage between the parties herein has totally broken down. It would also appear to me that the petitioner was not in any contributory to the breakdown of the marriage.

I am satisfied that the marriage celebrated between the petitioner and the respondent has failed on account of desertion of the petitioner by the respondent. I decree the dissolution of the marriage celebrated between the petitioner and respondent on 10th June 1998. Decree *nisi* shall issue forthwith and shall be made absolute after thirty (30) days. Joint custody of the issues of the marriage is granted to the parties. There will be no orders on costs.

DATED, SIGNED and DELIVERED at NAIROBI this 15th DAY OF August, 2013.

W. M.MUSYOKA

JUDGE

