

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

DIVORCE CAUSE NO. 86 OF 2013

P A.....PETITIONER

VERSUS

A O O.....RESPONDENT

J U D G M E N T

The Petitioner and the Respondent were on 30th April 2010 married at the District Commissioner's Office in Nandi Central District. The marriage was celebrated under the **Marriage Act**. After the celebration of the said marriage, the Petitioner and the Respondent cohabited together as husband and wife in Eldoret and in Nairobi. The marriage has not been blessed with any issues. According to the Petitioner, the Respondent has since the celebration of the marriage been cruel to her. She further accused the Respondent of deserting their matrimonial home. In the particulars set out in the petition for divorce, the Petitioner averred that the Respondent had deserted their matrimonial home. She accused the Respondent of insulting and demeaning her. She averred that Respondent had indicated to her that he was no longer interested in the marriage. According to the Petitioner, the Respondent's conduct has caused her to suffer mental anguish. The Petitioner was of the view that the Respondent's refusal to return to the matrimonial home meant that her marriage to the Respondent had irretrievably broken down with no possibility of reconciliation. In the premises therefore, the Petitioner urged the court to grant her petition for divorce and dissolve the marriage.

The Respondent was served with a copy of the petition for divorce together with a notice requiring him to enter appearance. He entered appearance through his advocates but he did not file an answer to the petition. The Deputy Registrar of this court issued a certificate certifying that this was a suitable cause to be disposed of as an undefended divorce cause. During the hearing of the cause, this court heard oral evidence adduced by the Petitioner. She essentially reiterated the contents of her petition for divorce. She told the court that the Respondent travelled to the United States of America on 30th May 2010 and had since not returned to Kenya. According to the Petitioner, the Respondent does not intend to come back to their matrimonial home. He does not want the Petitioner to join him in America. He has expressed this wish through the correspondences that has been exchanged between them. This court has considered the evidence adduced by the Petitioner in this cause. It was clear to the court that the marriage between the Petitioner and the Respondent has indeed irretrievably broken down with no possibility of salvage. The Petitioner and the Respondent only lived together for a period of one (1) month before the Respondent relocated to the United States of America. They have since been separated for a period of more than three (3) years. The Petitioner established the matrimonial offence of desertion. In the premises therefore, this court will grant her petition for divorce.

The marriage celebrated on 30th April 2010 at the District Commissioner's Office in Nandi Central District between the Petitioner and the Respondent is hereby dissolved. Decree nisi dissolving the said marriage is hereby issued. The decree nisi shall be made absolute thirty (30) from the date of this judgment. There shall be no orders as to costs.

DATED AT NAIROBI THIS 22ND DAY OF NOVEMBER 2013.

L. KIMARU

JUDGE