

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

DIVORCE CAUSE NO. 28 OF 2012

W M O.....PETITIONER

VERSUS

A C M.....RESPONDENT

J U D G M E N T

The Petitioner and the Respondent were on 22nd September 2000 married at the Registrar's Office in Nairobi. 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 Nairobi. The marriage has not been blessed with any issues. According to the Petitioner, the Respondent deserted from the matrimonial home in 2002. Since then, she had not returned to the matrimonial home. The Petitioner avers that all his efforts and that of their parents to reconcile them had failed. The Petitioner was of the view that the Respondent's refusal to return to the matrimonial home was a clear indication that his marriage to the Respondent had irretrievably broken down with no possibility of reconciliation. In the premises therefore, the Petitioner urged the court to grant his petition for divorce and dissolve the marriage.

The Respondent was served with a copy of the petition for divorce together with a notice requiring her to enter appearance. She did not enter appearance. Neither did she 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. He essentially reiterated the contents of his petition for divorce. He told the court that the reason why the Respondent deserted their matrimonial home was because she felt that the marriage was unsustainable. He stated that any effort at reconciliation had been unsuccessful. They had been separated for more than ten (10) years. 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 two (2) years. They have since been separated for a period of more than ten (10) years. Efforts at reconciliation have proved unsuccessful. The Petitioner established the matrimonial offence of desertion. In the premises therefore, this court will grant petition for divorce.

The marriage celebrated on 22nd September 2000 at the Registrar's Office in Nairobi 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

