

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI
DIVORCE CAUSE NO.45 OF 2010

J.W. N.....PETITIONER

VERSUS

A.R.I.....RESPONDENT

J U D G M E N T

The petitioner and the respondent were married on 12th December 2003 under the **Marriage Act** at St. [.....] Church in Nairobi. According to the petitioner, their marriage was blessed with one child who unfortunately died on 22nd March 2007. The petitioner avers that the respondent deserted the matrimonial home in April 2007. Since then the respondent had not returned to the matrimonial home despite efforts by the petitioner to be reconciled with the respondent. The petitioner accused the respondent of cruelty and adultery, particulars of which are set out in the petition for divorce. The petitioner therefore urged the court to grant his petition for divorce. The respondent was served with the petition for divorce. Although she entered appearance, the petitioner did not file an answer to the petition. The Deputy Registrar of this court issued a certificate certifying that this case was ready to be heard.

The petitioner fixed the petition for hearing. The respondent did not attend court during the hearing of the case. This court directed the petitioner to proceed with the hearing of the petitioner, the absence of the respondent notwithstanding. The petitioner basically reiterated the contents of the petition for divorce. Upon evaluating the evidence adduced, this court was satisfied that indeed the petitioner had established the ground of desertion pleaded in his petition for divorce. It was apparent that since April 2007, the petitioner and the respondent have been separated. It is now nearly four (4) years since the petitioner and the respondent were separated. From the petitioner's testimony, it was clear that the chances of the petitioner and the respondent being reconciled is remote to say the least. It appears that both the petitioner and the respondent have moved on with their respective lives. This court will therefore allow the petition for divorce.

The marriage solemnized between the petitioner and the respondent on 12th December 2003 at St. Benedict's Church Nairobi is hereby dissolved. A decree nisi dissolving the said marriage is hereby issued. The said decree nisi shall be made absolute thirty (30) days from the date of this judgment. There shall be no orders as to costs.

DATED AT NAIROBI THIS 25TH DAY OF FEBRUARY, 2011

L. KIMARU
JUDGE