

E.J.W.....PETITIONER

VERSUS

I.W.W.....RESPONDENT

J U D G M E N T

The petitioner and the respondent were on 5th September 1998 married at the S[.....]Christians in Nairobi. After the celebration of the said marriage, the petitioner and the respondent cohabited together as husband and wife at Lavington estate in Nairobi. According to the petitioner, the cohabitation lasted for about two (2) years. The marriage was not blessed with any issues. The petitioner stated that on 14th October 2000, the respondent deserted from the matrimonial home for no reason or any justifiable cause. Since the said separation, the petitioner and the respondent have not resumed cohabitation. It was on this ground of desertion that the petitioner was seeking to be divorced from the respondent.

The respondent was served with a copy of the petition. She duly entered appearance. She filed an answer to the petition. She admitted that she had indeed deserted from the matrimonial home on the date stated by the petitioner. She however explained that she was forced to move out of the matrimonial home due to the constant physical, psychological and emotional trauma that she suffered at the hands of the petitioner. She averred that the petitioner’s conduct had ruined the peace and happiness in the marriage. This conduct further frustrated any efforts to salvage the marriage. She urged the court to grant the petition for divorce.

At the hearing of the petition, it is only the petitioner who adduced evidence in support of the petition. The respondent chose not to offer any evidence to controvert the testimony of the petitioner. The petitioner basically reiterated the contents of the petition. From the said evidence, this court is satisfied that indeed the marriage between the petitioner and the respondent has irretrievably broken down with no chance of salvage. The petitioner and the respondent have been separated for more than ten (10) years. If there was any chance the petitioner and the respondent were to be reconciled, they would have been so reconciled in the intervening period of ten (10) years. It was apparent that the petitioner and the respondent made no effort to resolve the problem that resulted in their separation as a married couple. This court is satisfied that the petitioner proved, to the required standard of proof on a balance of probabilities, the ground of desertion in his petition for divorce.

In the premises therefore, the marriage solemnized between the petitioner and the respondent on 5th September 1998 at Nairobi is hereby dissolved. *Decree nisi* dissolving the said marriage is hereby issued. The *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 8TH DAY OF APRIL, 2011

L. KIMARU
JUDGE