

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

DIVORCE CAUSE NO.149 OF 2010

R.S.L.....PETITIONER

VERSUS

S.N.....RESPONDENT

J U D G M E N T

The petitioner and the respondent were on 14th April 2004 married at the East Africa [particulars withheld], Pangani, Nairobi. The marriage was celebrated under the Sikh Religion. Thereafter, the petitioner and the respondent cohabited together as husband and wife, in among other places, at Lake View Estate in Nairobi. The marriage was blessed with one issue, a son, born on 5th May 2006. According to the petitioner, the respondent deserted from the matrimonial home together with the issue of the marriage on 8th November 2006. The petitioner explained that despite attempt at reconciliation, the respondent had not returned to the matrimonial home. The petitioner therefore urged the court to grant his petition for divorce.

The respondent was served with a copy of the petition. She did not enter appearance. Neither did she file an answer to the petition. This court was satisfied that the respondent was properly served. It directed the petitioner to proceed with the hearing of his case, the absence of the respondent notwithstanding. In his testimony, the petitioner essentially reiterated the contents of his petition for divorce. This court has carefully considered the said evidence. This court is satisfied that the marriage between the petitioner and the respondent has indeed irretrievably broken down on ground of desertion. The petitioner and the respondent have been separated since 8th November 2006. Since then, despite attempts at reconciliation, the petitioner and the respondent have not resumed cohabitation. This court is of the view that the petitioner established, to the required standard of proof on a balance of probabilities, the ground of desertion in the petition for divorce.

In the premises therefore, the marriage solemnized between the petitioner and the respondent on 14th March 2004 in Nairobi under the Sikh marital rites is hereby dissolved. *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 8TH DAY OF APRIL, 2011

L. KIMARU

JUDGE