

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

DIVORCE CAUSE NO.84 OF 2009

C.K.S.....PETITIONER

VERSUS

A.J.S.....RESPONDENT

J U D G M E N T

The petitioner and the respondent were on 15th December 2005 married at the Registrar's office in Nairobi. The marriage was celebrated under the **Marriage Act**. According to the petitioner, she cohabited with the respondent as husband and wife in [PARTICULARS WITHHELD] in Nairobi up to February 2006 when the respondent, without any justifiable cause, deserted from the matrimonial home. The marriage was not blessed with any children. The petitioner prayed that the court grants her petition for divorce on the ground of desertion. It was the petitioner's case that since the respondent deserted from the matrimonial home in February 2006, he had neither returned nor made any attempts to resume cohabitation.

The respondent was served with the petition for divorce by substituted service. This is because the respondent is now resident in South Africa. The respondent acknowledged receipt of service of the petition. However, he did not enter appearance. Neither did he file answer to the petition. The hearing of this petition therefore proceeded as an undefended cause. This court heard oral testimony adduced by the petitioner. She basically reiterated the contents of the petition. After evaluating the said evidence, it was clear to the court that the marriage between the petitioner and the respondent has indeed irretrievably broken down on the ground of desertion. The respondent deserted the matrimonial home in February 2006 and relocated to India. He later moved to South Africa. Since February 2006, the respondent has not made any effort to resume cohabitation with the petitioner. It is now five (5) years since the petitioner and the respondent were separated. If the petitioner and the respondent were ever to be reconciled, reconciliation would have been promoted during this period.

In the premises therefore, this court holds that the marriage celebrated at the Registrar's office in Nairobi between the petitioner and the respondent on 15th December 2005 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 12TH DAY OF MAY, 2011

**L. KIMARU
JUDGE**