

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI
DIVORCE CAUSE NO.148 OF 2008

M.M.....PETITIONER

VERSUS

S.K.D.M.....RESPONDENT

J U D G M E N T

The petitioner and the respondent met on the internet. They were married on 7th February 2004 in Nairobi. According to the petitioner, soon after the celebration of the said marriage, the couple cohabited together as husband and wife. The marriage was not blessed with any issues. According to the petitioner, in March 2004, a month after the celebration of the said marriage, the respondent deserted their matrimonial home. He averred that the reason why the respondent deserted from the matrimonial home was due to, among other reasons, the fact that she had denied him his conjugal rights. The petitioner accused the respondent of committing the matrimonial offence of cruelty. The particulars of cruelty are set out in the petition for divorce. The petitioner, *inter alia*, stated that the respondent during the subsistence of the marriage, was a spend thrift and had caused the petitioner to suffer ill health due to her behaviour. It was on account of the above reasons that the petitioner reached the decision that his marriage to the respondent had irretrievably broken down with no chance of reconciliation. The petitioner therefore urged the court to grant him his petition for divorce.

The respondent was served with the petition. She duly entered appearance but failed to file any papers in answer to the petition. During the hearing of the petition, the respondent was served with the hearing notice. She failed to attend court. The petition was therefore unopposed. In his testimony in support of the petition, the petitioner in essence reiterated the contents of the petition for divorce. Having evaluated the evidence adduced by the petitioner, this court was satisfied that the petitioner had established the matrimonial offence of desertion. The petitioner and the respondent have been separated since March 2004. It is now seven (7) years since the petitioner and the respondent were separated. If there was any chance of reconciliation, the two would have by now been reconciled. It was clear to this court that the marriage between the petitioner and the respondent has indeed irretrievably broken down with no possibility of salvage.

In the premises therefore, this court will allow the petition for divorce. The marriage solemnized on 7th February 2004 between the petitioner and the respondent pursuant to the **Hindu Marriage and Divorce Act** 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 16TH DAY OF MARCH, 2010

L. KIMARU
JUDGE