

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI
DIVORCE CAUSE NO.50 OF 2010

J.V.C.....PETITIONER

VERSUS

V.K.C.....RESPONDENT

J U D G M E N T

The petitioner and the respondent were on 22nd February 2002 married according to **Hindu Marriage Rites** at A[particulars withheld] in the Republic of India. After the said marriage, the petitioner and the respondent cohabited together as husband and wife at their matrimonial home at Kolobot Road, Nairobi. The marriage was blessed with one issue, a son, born on 28th March 2005. According to the petitioner, since 1st December 2006, the respondent had deserted from the matrimonial home. The petitioner explained that the cause of the desertion of the respondent from the matrimonial home was due to irreconcilable differences that emerged in the marriage. Effort by the elders of the community to reconcile the petitioner and the respondent has been in vain. The petitioner therefore prayed that the marriage between herself and the respondent be dissolved by this court granting the petition for divorce. She prayed to be granted custody of the child of the marriage.

The respondent was duly served with a copy of the petition. He neither entered appearance nor filed an answer to the petition. This court was satisfied that the respondent was duly served. It directed the respondent to proceed with the hearing of her case, the absence of the respondent notwithstanding. The petitioner basically reiterated the contents of the petition in her testimony before court. This court has carefully considered the said evidence. It was clear to the court that the marriage between the petitioner and the respondent has irretrievably broken down. Since going their separate ways, on 1st December 2006, the petitioner and the respondent have not resumed cohabitation. From the testimony of the petitioner, it was apparent that it is unlikely that the petitioner and the respondent will be reconciled. This court therefore holds 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 celebrated between the petitioner and the respondent on 22nd February 2002 in accordance with Hindu Marriage Rites in Rajkot, India 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. The petitioner shall have the custody of the child. There shall be no orders as to costs.

DATED AT NAIROBI THIS 8TH DAY OF APRIL, 2010

L. KIMARU
JUDGE