

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAKURU

Divorce Cause 19 of 2007

C.A.O.....PETITIONER

VERSUS

F.B.O.....RESPONDENT

JUDGMENT

The petitioner petitioned for the dissolution of the marriage with the respondent which was solemnized on 30th July 2003 before the Registrar of Marriages at Sheria House Nairobi. According to the petitioner, she met the respondent in August 2003. They lived together for only three days after which the respondent moved to Italy. The respondent came back in July 2003 and on 30th July 2003 they registered the marriage at the Registrar's Office, Nairobi. They lived together for one month, within which the respondent used to stay at his rural home or merely absent himself by coming home late.

The respondent refused to discuss whether the petitioner would accompany him to Italy. The respondent returned to Italy and did not communicate with the petitioner. The petitioner tried calling, but the respondent did not want to communicate. He even changed the telephone numbers. In the year 2006, the petitioner lost her father but the respondent did not even convey a message of condolences. In 2007, the petitioner realised the respondent had come into Kenya but did not bother to contact her.

According to the petitioner, the marriage never worked, besides, they have been separated for a period of over 4 years. The respondent deserted the petitioner thereby denying her conjugal rights, companionship and maintenance. This caused the petitioner anxiety and anguish. The respondent also did not support the petitioner for the period they were married. There is no issue between the petitioner and the respondent.

The marriage is irretrievably broken down and the petitioner sought for its dissolution. The respondent filed a defence in which he also sought for the dissolution or annulment of the marriage. He was represented by counsel who filed the appearance and the defence but they did not attend court during the hearing of the petition.

I have considered the evidence adduced by the petitioner as well as the pleadings filed herein. Even the defence by the respondent admits that the marriage is broken down and should be dissolved. The parties have not lived together since 2003. They have not also been in communication. This was a very short-lived encounter that led to a hurried solemnization of marriage which did not even last for a month. The petitioner has been able to prove that the respondent deserted her without cause for a period of more than three (3) years before the presentation of this petition. It is also clear that the desertion caused the petitioner pain and suffering.

Accordingly I am satisfied that this petition was not presented through collusion but for reasons that the marriage had irretrievably broken down. The petitioner has proved her case and I hereby grant the orders sought that the marriage between the petitioner and the respondent be and is hereby dissolved. The petitioner did not adduce evidence regarding her maintenance. In any event she testified that the respondent never provided her with maintenance. In this case I am unable to make an order of

maintenance. The petitioner shall however have the costs of this petition. The *decree nisi* to issue after three (3) months.

Judgment read and signed on 13th day of June, 2008

M. KOOME

JUDGE