

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

MILIMANI LAW COURTS

FAMILY DIVISION

DIVORCE CAUSE NO. 81 OF 2015

D.M.....PETITIONER

VERSUS

J.N.....RESPONDENT

JUDGMENT

1. The petitioner and the respondent are Kenyan citizens who reside and work in Dubai. They got married at Kitengela in Kenya on 11th May 2012 under the now repealed **Marriage Act (Cap 150)**. The respondent returned to Dubai after three days, promising the petitioner that she would follow him after a month. He did not enable her. She followed him there after one year and found he was staying in a hotel with four other men. She stayed there for a week but the place was not conducive. She went to stay in a ladies hostel. She was on one month visa. The respondent was unreceptive and abusive. She returned to Kenya and renewed her visa as she had got a job in Dubai. She went back to Dubai. The respondent refused to stay with her, or get her a place to stay. Even when she offered her salary as a way of providing for their upkeep, he was not interested. Whenever they had sexual interactions he insisted on her using family planning pills. He said he did not want children, and neither did he want her to be the mother of his children. She tried the assistance of their parents, pastor and best couple but the respondent could not change. He was unfaithful. Lastly, he blocked all communication between them. He blocked her telephone line. The marriage had no children.
2. These are the reasons that caused the petitioner to file this petition for divorce on 13th May 2015. It was grounded on constructive desertion, adultery and cruelty. The petition was served but did not elicit any response. The evidence of the petitioner was therefore not controverted.
3. I accept the petitioner's evidence, and find that the respondent was guilty of constructive desertion and that his conduct to the petitioner was cruel. I allow the petition as the marriage cannot be salvaged, because the respondent was not at all interested in it. The marriage is hereby dissolved. *Decree Nisi* shall issue and shall become absolute after 30 days. Costs shall follow the event.

DATED and SIGNED at NAIROBI this 8th day of June, 2016.

A.O. MUCHELULE

JUDGE

DATED and DELIVERED at NAIROBI this 9TH June, 2016.

W. MUSYOKA

JUDGE