

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

DIVORCE CAUSE NO. 36 OF 2015

E W TPETITIONER

VERSUS

E M NRESPONDENT

JUDGMENT

1. The Petitioner has filed a petition dated 16th February 2015 seeking the dissolution of her marriage to the respondent. The petitioner and respondent got married under the Marriage Act Cap 151 Laws of Kenya at P.C.E.A Bibirioni Church on the 8th day of September 2007. After the said celebration of marriage the petitioner and respondent cohabited as husband and wife in Kitengela 2007-2009 and Uthiru 2009-2012. The petitioner alleges that since the celebration of the marriage the Respondent has been guilty of desertion and as a result she has suffered mental anguish. Reasons why she seeks the dissolution of the said marriage and custody of the children of the marriage.

2. She avers that the respondent has deserted the petitioner without cause for a period of 2 years immediately proceedings the presentation of this petitions respondent is currently resides in Uthiru although his place of residence is in Kenya. That the parties have been living separately since January 2012 when the respondent deserted the matrimonial home. She denied knowing where the respondent worked adding that he neglected his responsibilities as a husband and father for failing to take care of the home and disregarding the petitioner's needs.

3. The respondent despite being served did not enter appearance nor reply to the petition. The registrar proceeded to issue a certificate that the same proceeded as an undefended cause.

4. The cause came up for hearing on 18th June 2015. The petitioner reiterated the averments of the petition adding that they had a 5 year old child by the name P M. That she has not seen or heard from the respondent since 2012 when she came from work and took his back pack and disappeared.

5. The petitioner seeks dissolution of his marriage to the respondent on grounds of desertion. Desertion is one of the grounds of divorce listed under the Matrimonial Causes Act Cap 152 (now repealed) and also the Marriage Act 2014. The petitioner in her testimony stated that the respondent left the matrimonial home in 2012 without any cause and did not indicate where he was going and though it is said he stays in Uthiru his place is unknown. It appears that the respondent has lost interest in the marriage and the petitioner is denied the rights to companionship from the respondent in view of which I find that the marriage has irretrievably broken down. I therefore dissolve the marriage between the petitioner and the respondent that was celebrated on the 8th day of September 2007. The petitioner has sought custody of the sole child of the marriage in regards to the same she is advised to file for custody at the Children's court. A decree nisi to issue forthwith and to be made absolute within 30 days. No orders as to costs. It is so ordered.

Dated, signed and delivered this 9th Day of *July* 2015.

R. E. OUGO

JUDGE

In the presence of:

..... **For the Petitioner**

..... **For the Respondent**

Ms. Charity.....**Court Clerk**