

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

DIVORCE CAUSE NO. 219 OF 2014

H M S.....PETITIONER

VERSUS

A S.....RESPONDENT

JUDGMENT

1. The Petitioner filed a petition dated 10th November 2014 seeking the dissolution of his marriage to the Respondent. The Petitioner and the respondent got married on 7th August 1988. That after the celebration of the said marriage they cohabited at Kitisuru in Nairobi from 1988 to 2000 and later on migrated to Perth, Australia where they cohabited from 2000 to 2011 and returned to Kenya in mid-2011. That soon after the Respondent soon after relocated to the United Kingdom where she is still domiciled. There are two issues of the said marriage **S H S** born on 7th March 1993 and **A H S** born on 5th September 1995.
2. The petitioner avers that the respondent has deserted him for over 3 years since their return from Australia in 2011 and decided to settle in the UK where their 2 sons are studying, with no indication of when she intends to return to resume cohabitation with the petitioner, leading to the irretrievable breakdown of the marriage. That the petitioner has on several occasions attempted to convince the respondent to return to Nairobi in order to attempt resuscitating the marriage but to no avail. That the petitioner has continued to meet the living and sustenance of the respondent as well as the educational costs of their sons.
3. The respondent despite being served with the said petition did not enter appearance and the Registrar issued a certificate that the same proceed for hearing as an undefended cause.
4. The cause was heard on 25th June 2015. The petitioner reiterated the averments of his petition. 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 Desertion is one of the grounds of divorce listed under the Matrimonial Causes Act Cap 152 (now repealed) and also the Marriage Act 2014.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 his testimony stated that the respondent left for the UK over 3 years ago and has not indicated when she would be back. I find that the petitioner is denied the rights to companionship from the respondent in view of which I find that their marriage has irretrievably broken down. I therefore dissolve the marriage between the petitioner and the respondent that was celebrated on the 7th August 1988. A decree nisi to issue forthwith and to 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**

..... **Court Clerk**