

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

DIVORCE CAUSE NO. 104 OF 2014

M A H.....PETITIONER

VERSUS

M A H.....RESPONDENT

JUDGMENT

1. The petitioner filed a petition on 19th May 2014 seeking orders that the marriage between her (the Petitioner) and the Respondent be dissolved. The parties got married under Muslim tradition on 12th April 1994, in Virginia, United states of America. The parties after the said marriage cohabited together as man and wife in Virginia, USA as from the date of the marriage in 1994, until they moved to Kenya in 1995. The petitioner is currently domiciled in Kenya and presently resides in Nairobi while the respondent is domiciled in the United States of America. The union of the parties was blessed with three children namely; **E H Born on 26th October 1992, M H born on 18th September 1998 and M H born on 28th July 2003.**

2. The Petitioner works at the United Nations while the Respondent is currently residing in California, in the United States of America. In or about the month of July 2008, the Respondent moved to the United California in the United States of America with their three children and has since refused to return to Kenya. That she lives with the two young children who are underage and whom he maintains and supports. The third child is 22 years an adult in university in France. He avers that between the year 2009 and 2010 he tried reconciliation but nothing has worked. He admits he sees the children and that he last saw them last in 2013. That he asked his wife to move back to Kenya, she said she would in a year's time but later on told him that she had no intentions of coming back to Kenya upon getting a green card abandoning wholly abandoning her duties as a wife. He claims that the Respondent deserted him reasons he seeks the marriage between the parties to be dissolved.

3. The cause was heard on 18th June 2015 and the petitioner reiterated the averments as raised in his petition. He stated that they have lived apart since 2008 though he saw the children in 2013 and still maintains and supports the two young children.

4. The petitioner seeks a divorce on grounds of desertion. Desertion is a ground for divorce under the Marriage Act. Desertion is one of the grounds for divorce outlined at Section 66(d) of the Marriage Act. The petitioner states that he and the respondent have been separated since 2008. This is more than 6 years preceding the filing of this petition. I find that the said separation denies the petitioner companionship and as such it is evident that the marriage has irretrievably broken down and there is no possibility of reconciliation. This court therefore dissolves the marriage between the Petitioner and the Respondent celebrated on the 12th April 1994. 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:

.....**Petitioner**

.....**Respondent**

Ms. Charity

Court Clerk