

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

DIVORCE CAUSE NO. 243 of 2012

M M M.....PETITIONER

VERSUS

R GRESPONDENT

JUDGMENT

1. The Petitioner has filed a petition dated 30th November 2012 seeking the dissolution of his marriage to the Respondent. The petitioner and respondent got married under the marriage Act at Attorney General's Chambers in the office of the Registrar of marriages on 25th April 2008. After their marriage, the petitioner and the respondent cohabited for one month in Ngumo Estate in Nairobi where after the respondent left the country for further studies in Italy. He avers that the marriage between the petitioner and the respondent was not blessed with any child. That since the celebration of the marriage parties herein lived together as husband and wife only for one month and the respondent moved to Italy in May 2008. That since then the respondent has never communicated to the petitioner and did not give him her contacts hence deserted the petitioner. That he has tried to get her through relatives and friends but has not succeeded. That in April 2014 he was informed that she was in town in April 2014 and despite efforts could not get her.
2. He particularized desertion as follows that the respondent in May 2008 migrated to Italy for further studies but when she arrived there, she declined to communicate to the petitioner of her residence and her interest in the marriage. That it is 4 years since the petitioner heard or known the whereabouts of the respondent and that it is also not known if the respondent came back from her studies in Italy to Kenya. That the respondent has deliberately refused to disclose her residence or come back to Kenya for re-union with the petitioner and that her whereabouts are not known to any family member and/or petitioner to date.
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 Desertion is one of the grounds of divorce listed of the Matrimonial Causes Act Cap 152 (now repealed) and also the Section 66 (d) of the Marriage Act 2014. The petitioner in his testimony stated that he cohabited with the respondent for only one month before she left the country for Italy for further studies and that she has not kept in touch with her for over 4 years now. 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 and that the respondent deserted the petitioner in 2008. I therefore dissolve the marriage between the petitioner and the respondent that was celebrated on the 25th April 2008. 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