



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAKURU
DIVORCE CASE NO.9 OF 2011

I M.....PETITIONER

VERSUS

S M M.....RESPONDENT

JUDGMENT

By way of a petition dated the 26th day of April, 2011, the petitioner sought orders that:

- (a) The marriage between the Petitioner and the Respondent be dissolved and a decree of divorce to issue.
- (b) The Respondent be condemned to pay the costs of this petition.
- (c).....

Despite clear evidence of service of the petition, the Respondent failed to enter appearance and/or file an answer to the petition and the hearing proceeded *ex parte*.

The Petition was based on ground of desertion particularised in paragraph 7 of the petition.

In evidence, the petitioner told the court that she got married to the Respondent on the 28th June, 2006. She produced a Marriage Certificate as an exhibit. She added that they live together at Nakuru [Particulars Withheld] Estate. After one (1) month, the Respondent walked out of the matrimonial home never to return.

The Petitioner was later to learn that the Respondent was living with another woman in Section [Particulars Withheld] Estate.

The Respondent never consummated the marriage. They bore no children. The Petitioner states that she suffered mental anguish and stress as a result of the treatment from the Respondent. She prayed that the marriage herein be dissolved because it was never consummated and as a result of the desertion. The marriage to her had irretrievably broken down.

I have had occasion to consider the petition and the evidence adduced by the only witness, the Petitioner. I note that the Petitioner's evidence is not controverted by any other evidence.

She has stated that the Respondent deserted the matrimonial home one (1) month into the marriage. This was in July, 2006. It is now nine (9) years since. This fact remains uncontroverted.

I am satisfied that the Respondent has deserted the Petitioner and given the time that has lapsed, he has no intention of returning to breath life into the marriage between him and the Petitioner.

This petition succeeds on the ground of desertion. I consequently allow the petition in terms of prayer (a) and (b).

Orders accordingly.

Dated, Signed and Delivered at Nakuru this 16th day of October, 2015.

A. K. NDUNGU

JUDGE