

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

DIVORCE CAUSE NO. 199 OF 2013

J B M.....PETITIONER

VERSUS

S B.....RESPONDENT

J U D G M E N T

The Petitioner and the Respondent were married on 20th December 1996 under Islamic marriage celebration in London. After the celebration of the marriage, the Petitioner and the Respondent cohabited together as husband and wife in London until 1998 when they returned to Kenya. The Petitioner and Respondent formalized their marriage on 18th April 2001 when they were married at the Registrar's Office in Nairobi. The marriage was blessed with two issues, twins, aged twelve (12) years. According to the Petitioner, since the celebration of the marriage the Respondent has deserted the matrimonial home. In particular, he alleged that in August 2006 the Respondent without notifying him left their matrimonial home to visit her mother in London only to return back late in December 2006. He further avers that in March 2007, the Respondent again left for London to visit her mother and has not returned to the matrimonial home ever since. The Petitioner avers that the Respondent had shown him utter contempt and lack of commitment towards her matrimonial vows. In the premises therefore, the Petitioner urged the court to grant his petition for divorce and dissolve the marriage.

The Respondent was served with a copy of the petition for divorce together with a notice requiring her to enter appearance. She did not enter appearance. Neither did she file an answer to the petition. The Deputy Registrar of this court issued a certificate certifying this cause to be a suitable one to be disposed of as an undefended cause. During the hearing of the cause, this court heard oral evidence adduced by the Petitioner. He essentially reiterated the contents of his petition for divorce. He told the court that he has been separated from the Respondent since 2007 and now wished to move on with his life. This court has considered the evidence adduced by the Petitioner in this cause. It was clear to the court that the marriage between the Petitioner and the Respondent has indeed irretrievably broken down with no possibility of reconciliation. The Petitioner and the Respondent have been separated for a period of more than six (6) years. The testimony of the Petitioner clearly showed that the Petitioner and the Respondent no longer related as husband and wife. This court is of the view that the Petitioner established the matrimonial offence of desertion. In the premises therefore, this court will grant the petition for divorce.

The marriage celebrated between the Petitioner and the Respondent on 20th December 1996 and formalized on 18th April 2001 at the Registrar's Office in Nairobi is hereby dissolved. Decree nisi dissolving the said marriage is hereby issued. The decree nisi shall be made absolute thirty (30) days from the date of this judgment. There shall be no orders as to costs.

DATED AT NAIROBI THIS 7TH DAY OF FEBRUARY, 2014.

L. KIMARU

JUDGE