

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

DIVORCE CAUSE NO. 90 OF 2012

BETWEEN

D O G.....PETITIONER

AND

S A O.....RESPONDENT

JUDGEMENT

1. Marriage was celebrated between the parties herein on 29th November 2002 at the Office of Registrar of Marriage at Nairobi. A certificate of marriage serial number *[particulars withheld]* was issued to them in accordance with the Marriage Act. The couple thereafter cohabited both in and outside Kenya as husband and wife. The couple was blessed with two issues – M A A and I A A – born 1992 and 1996 respectively.
2. The petition in this matter was filed in court on 17th May 2012. The petitioner accuses the respondent of desertion. He is said to have deserted the applicant in September 2008. He wilfully deserted the petitioner while in South Africa, never to come back. The parties have never lived together since then. The effect of the desertion was that the petitioner was denied conjugal rights, and has not been supported financially and psychologically by the petitioner.
3. The petition was served on the respondent on 21st June 2012. There is an affidavit of service to evidence the same. The respondent did not appear nor file answer to the divorce petition. On 14th February 2013 the Deputy Registrar certified that the matter proceeds for hearing as an undefended cause. As there is no reply, the petitioner's allegations, as made in the petition, remain uncontroverted.
4. The petitioner testified on 26th September 2013 and gave vent to the allegations made in her petition. No counter evidence was given by the respondent, and therefore the petitioner's story was not controverted.
5. It would appear to me that the marriage between the parties herein has irretrievably broken down. It would also appear to me that there has been no collusion between the petitioner and the respondent in the bringing of these proceedings. There is also no evidence that the petitioner has condoned the adultery.
6. I hereby dissolve the marriage celebrated between the petitioner and respondent on 29th November 2002. Decree *nisi* shall issue forthwith and shall be made absolute after thirty (30) days. There will be no orders as to costs.

DATED, SIGNED and DELIVERED at NAIROBI this 14th DAY OF March, 2014.

W. MUSYOKA

JUDGE

