

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

DIVORCE CAUSE NO. 85 OF 2012

D V N.....PETITIONER

VERSUS

R D K.....RESPONDENT

J U D G M E N T

The Petitioner and the Respondent were married on 16th August 2003. The marriage was celebrated at A.C.K Emmanuel Church at Jilore in Malindi under the African **Christian Marriage and Divorce Act**. According to the Petitioner, he had cohabited with the Respondent for some time prior to formalization of the marriage. The marriage has not been blessed with any issues. According to the Petitioner, the Respondent left the matrimonial home soon after the celebration of the marriage. The Petitioner averred that the Respondent left the matrimonial home on 26th August 2003 for the United States of America. She left on a visa organized by the church purportedly to attend a Christian exchange programme. Since then, she has not returned to the said matrimonial home. The Petitioner avers that since then no conjugal relations had taken place between her and the Respondent. 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 that this was a suitable cause to be disposed of as an undefended divorce 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. After carefully considering the facts of this case, it was clear to this court that the Petitioner had indeed established that the Respondent committed the matrimonial offence of desertion. The Respondent left the matrimonial home ten days after the formal celebration of their marriage. She has since not returned to the matrimonial home. It is now over ten (10) years since the Respondent left the matrimonial home. According to the Petitioner, the Respondent has no intention of returning to the said matrimonial home. In the premises therefore, this court will grant the petition for divorce.

The marriage solemnized on 16th August 2003 at A.C.K Emmanuel Church at Jilore in Malindi between the Petitioner and the Respondent 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 10TH DAY OF JUNE, 2014

L. KIMARU

JUDGE