

IN THE HIGH COURT OF KENYA AT NAIROBI

DIVORCE CAUSE NO. 175 OF 2013

R R M.....PETITIONER

VERSUS

N W KRESPONDENT

J U D G M E N T

The Petitioner and the Respondent were married on 9th July 2010 at the Registrar's Office in Nairobi. The marriage was celebrated under the **Marriage Act**. According to the Petitioner, he had cohabited with the Respondent for a period of time prior to formalizing the marriage. The Petitioner and the Respondent cohabited together as husband and wife in various estates within the City of Nairobi. The marriage has been blessed with one (1) issue born on 26th March 2010. According to the Petitioner, the Respondent deserted the matrimonial home in July 2012. The Petitioner further accuses the Respondent of being cruel to him. In the particulars set out in the petition for divorce, the Petitioner accused the Respondent of being verbally abusive. He further states that the Respondent had humiliated him in the presence of his neighbours and friends. He accused the Respondent of leaving the matrimonial home for extended periods of time without informing him and, further for denying him access to the issue of the marriage. The Petitioner further complained that the Respondent was a person of ungovernable temper. It is on account of the above matrimonial offences that the Petitioner is of the view that his marriage to the Respondent had irretrievably broken down with no possibility of salvage. In the premises therefore, the Petitioner urged the court to grant his petition for divorce.

The Respondent was served with the petition for divorce. She did not enter appearance. Neither did she file any papers in opposition to the petition for divorce. The Deputy Registrar of this court issued a certificate certifying this cause as suitable to be heard as an undefended divorce cause. The Petitioner testified during the hearing of the divorce cause. He basically reiterated the contents of the petition for divorce. He told the court that the Respondent had treated him with cruelty as pleaded in his petition for divorce. She had deserted the matrimonial home since July 2012 and had not returned to the said matrimonial home since then. He told the court that his efforts at reconciliation had failed. The evidence adduced by the Petitioner was uncontroverted. This court has carefully considered the facts of this case. It was clear to this court that the marriage between the Petitioner and the Respondent had irretrievably broken down with no possibility of salvage. The Petitioner and the Respondent are no longer living together. They have been separated for nearly two years. This court formed the view that indeed the matrimonial offences of cruelty and desertion have been proved to the required standard of proof on a balance of probabilities. This court will grant the petition for divorce.

In the premises therefore, the marriage celebrated between the Petitioner and the Respondent at the Registrar's Office, Nairobi on 9th July 2010 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 14TH DAY OF JULY, 2014

L. KIMARU

JUDGE