

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

MILIMANI LAW COURTS

FAMILY DIVISION

DIVORCE CAUSE NO. 51 OF 2014

R W W.....PETITIONER

VERSUS

E W K..... RESPONDENT

JUDGMENT

1. The petitioner and the respondent got married on 27th May 1988 at the Registrar's office in Nairobi and lived together in Nairobi and Kirinyaga. They have lived apart since 1993 when the respondent deserted the matrimonial home.
2. The undisputed evidence by the petitioner was that during all the period that the couple lived together, the marriage was not consummated. This was because the respondent was incapable of getting an erection. The couple could not therefore have children.
3. Under **section 14(1)(a)** of the **Matrimonial Causes Act (Cap 152)** where either party is incapable of consummating the marriage that is a ground on which a decree of nullity of marriage may be issued.
4. On the evidence tendered by the petitioner it is ordered that the marriage between the petitioner and the respondent is a nullity. A decree of nullity shall consequently issue.

DATED and DELIVERED at NAIROBI this 3rd July, 2014

A.O. MUCHELULE

JUDGE