



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI

DIVORCE CAUSE NO.70 OF 2012

BETWEEN

M L C.....PETITIONER

AND

P S M.....RESPONDENT

JUDGMENT

1. The petitioner in this matter married the respondent on 8th August 1981 at a ceremony at the Consolata Church in Nairobi. A certificate of marriage No. *[particulars withheld]* was duly issued, copy of which is attached to the petition filed in court in this cause. The couple thereafter cohabited at various addresses in Nairobi.
2. The petition herein was filed in court on 18th April 2012. In it the petitioner accuses the respondent of desertion. The respondent is said to have had deserted the matrimonial home on 27th August 2006, never to come back, compelling the petitioner to live on her own to date. The petitioner made efforts to persuade the respondent to rekindle the love but to no avail.
3. The petition and the notice to appear were served on the respondent on 10th May 2012. There is an affidavit of service on record sworn on 10th May 2012 and filed in court on 16th May 2012. The respondent did acknowledge service vide a document he signed the same day. He did not however appear nor file an answer to the petition; hence the cause was cleared by the Deputy Registrar on 7th June 2012 to proceed as an undefended cause.
4. The petitioner testified on 9th May 2013. She told the court that the respondent left the matrimonial home on 27th August 2006 and never came back. It is clear from the evidence that there is no marriage. All efforts to reconcile are said to have failed. This evidence was uncontroverted.
5. It appears to me that the marriage between the parties has completely broken down. It would also appear to me that there has been no collusion between the petitioner and the respondent in bringing these proceedings. There is also no evidence that the petitioner condoned the desertion.
6. I hereby allow the petition dated 18th April 2012, and dissolve the marriage celebrated between the petitioner and respondent on 8th August 1981. Decree *nisi* shall issue forthwith, to be made absolute after thirty (30) days.

7. There shall be no order as to costs.

DATED, SIGNED and DELIVERED at NAIROBI this 8th DAY OF November, 2013.

W. M. MUSYOKA

JUDGE