

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

DIVORCE CAUSE NO. 110 OF 2009

N N NPETITIONER

-VERSUS-

M N K.....RESPONDENT

JUDGMENT

1. The parties in this matter contracted a statutory marriage under the Marriage Act, Cap 150, Laws of Kenya, on 21st December 1996 at the Holy Family Basilica, Nairobi.
2. According to the papers on record the parties cohabited at Imara Daima Estate, Nairobi, thereafter and had one child between them, named A N N [minor].
3. The petition for dissolution of the said marriage is grounded on desertion. It is alleged that the respondent deserted the matrimonial home on 4th April 2000, never to come back. Since then the parties have not resumed cohabitation nor had conjugal relations.
4. The respondent filed an answer and cross- petition. She denies the desertion allegations and asserts that the marriage broke down and accuses the petitioner of assault, cruelty and adultery. There are particulars to support these claims. On adultery, it is pleaded that the petitioner is presently living with another woman and they have two children.
5. The petitioner has denied these allegations in the answer and cross-petition.
6. The matter was heard on two days and was heard by two different judges. Karanja J heard the petitioner on 7th July 2011. The respondent testified on 1st November 2012 before Njagi J.
7. It is evident from the record that the marriage between the parties has broken down completely. They are no longer living together and both are clear that there is no marriage between them.
8. Based on the above conclusion, I make the following orders:-

(a) the marriage contracted on 21st December 1996 between the petitioner and the respondent is hereby dissolved.

(b) joint custody of the issue of the marriage is granted to the parties, with the respondent having physical custody.

(c) Each party shall bear their own costs.

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

W. M. MUSYOKA

JUDGE