

**IN THE HIGH COURT FOR ZAMBIA
AT THE PRINCIPAL REGISTRY
HOLDEN AT LUSAKA**

HP/2014/D.149

(Civil Jurisdiction)

BETWEEN

NG'ANDWE WATUKA

PETITIONER

AND

KAMPAMBA BANDA

RESPONDENT

Before: Hon. Judge B.M.M. Mung'omba on this 1st day of December, 2014.

For the Petitioner: Mrs. M.M. Muyambango of Dove Chambers

For the Respondent: In Person

J U D G M E N T

Legislation referred to:

1. *The Matrimonial Causes Act, Act No.20 of 2007*

The Petitioner, **NG'ANDWE WATUKA** filed in a petition for dissolution of her marriage on 3rd July, 2014. She seeks the dissolution of her marriage on the ground that the parties to it have lived apart for a continuous period of at least two years immediately preceding the presentation of the petition. The Respondent consents to a decree being granted.

The Petitioner contends that she was married to **KAMPAMBA BANDA**, the Respondent on 26th March, 2011, at St Ignatius Church in Lusaka. Both the Petitioner and the Respondent are domiciled in Zambia; last lived together as husband and wife at House No. 1422 Palm Drive, Chelstone, Lusaka. There are no children of the family now living. No other child living has been born to either the Petitioner or the Respondent during the subsistence of the said marriage. There are or have been no previous proceedings in any Court in Zambia or elsewhere with reference to the same marriage or with reference to any property of either or both of them. There are no proceedings continuing in any Country outside Zambia, which are in respect to the marriage or are capable of affecting its validity or subsistence. Further that no agreement or arrangement has been made or is proposed to be made between the parties.

When the petition came up for hearing on 30th October, 2014, the Respondent reiterated the contents of her petition, that she got married to the Respondent on 26th March, 2011 and that they last lived together as husband and wife in September, 2011 in Avondale. She prayed that the said marriage be dissolved.

The Respondent confirmed that they had lived apart for a continuous period of over two years and he consented to the marriage being dissolved.

Section 9(1) (d) of the Matrimonial Causes Act, provides that a marriage contracted under the said Act shall be held to have irretrievably broken down by the Court where there is evidence establishing that the parties to it have lived apart for a continuous period of at least two years immediately preceding the presentation of petition and the Respondent consents to its dissolution.

On the evidence before me, I am satisfied that the parties have lived apart since September, 2011, a period of over two years before the petition was filed. Further the Respondent filed in his consent to the marriage being

dissolved. On this evidence which I accept, I am satisfied that the requirements of the law as provided by **Section 9(1) (d) of the Matrimonial Causes Act** have been met.

I accordingly find that the marriage unionized under the provisions of the **Marriage Act** on 26th March, 2011, at St. Ignatius Church in Lusaka in the Lusaka Province of the Republic of Zambia between **NG'ANDWE WATUKA**, the Petitioner and **KAMPAMBA BANDA**, the Respondent has irretrievably broken down by reason of the parties to it having lived apart for a continuous period of at least two year immediately preceding the petition of the retention and the Respondent consents to its dissolution.

I **DECREE** that the said marriage be dissolved and a **DECREE NISI IS HEREBY GRANTED**, to be made absolute within six (6) weeks of the date hereof unless cause be sooner shown to the Court as to why it should not be made.

The order of property adjustment and maintenance generally, should they arise are referred for hearing before the learned Deputy Registrar.

The parties shall bear their own costs.

Dated this 1st day of December, 2014

B.M.M. Mung'omba
HIGH COURT JUDGE