

IN THE HIGH COURT FOR ZAMBIA
AT THE PRINCIPAL REGISTRY
HOLDEN AT LUSAKA
(Divorce Jurisdiction)

2016/HP/D155

BETWEEN:

ZACKARIA MULONDIWA



PETITIONER

AND

LINNET MUSOWOYA MULONDIWA

RESPONDENT

Before the Honorable Mr. Justice E. M. Sikazwe in Chambers

For the Petitioner : *In Person*

For the Respondent : *Ms Hawa Musonda – Legal Aid Counsel*

J U D G M E N T

Legislation referred:

Section 9 (d) of the Matrimonial Causes Act No. 20 of 2007.

This is a petition for dissolution of marriage filed by **Zackaria Mulondiwa** the Petitioner on 9th June, 2016. The Petitioner seeks to have his marriage to **Linnnet Musowoya Mulondiwa**, the Respondent, dissolved.

The petition of Zackaria Mulondiwa shows that he got married to the Respondent on 24th April, 2011 at the Office of the Registrar of Marriages at Lusaka Civic Centre, Lusaka as per the photocopy of a Marriage Certificate

number 271 dated 24th April, 2011 submitted into Court. The Petitioner and Respondent last lived together as husband and wife at 19 Canada Street Manchester M40 8AF United Kingdom. The Petitioner is domiciled in Zambia while the Respondent is domiciled in the United Kingdom.

The Petitioner is a Projects Manager at Rephidim Institute Farm NO 690a Fern groove Kasupe in Lusaka West while the Respondent is employed by Cooperative Bank United Kingdom.

There is one (1) child of the family by the name of **David Daniel Mulondiwa** born on 10th April, 2013 in Nursery School in Manchester United Kingdom.

There were proceedings in the Local Court of Southampton of United Kingdom which were discontinued for lack of jurisdiction.

There are no proceedings continuing in Zambia or elsewhere with regard to this marriage which can affect the valid or its substance.

The Petitioner contends that the marriage has broken down irretrievably by the reason of the fact that the Petitioner and the Respondent have lived apart since July 2013 the period of more than 2 years immediately proceedings the presentation of this petition.

The Petitioner, therefore, prays that the marriage be dissolved; that the custody of the child of the family continue to reside with the Respondent in the United Kingdom and that the Petitioner be given reasonable and liberal access to the child including custody and maintenance of the child during school holidays; that there be no property settlement and maintenance as there is no property acquired by the parties; that each party bear their own legal costs; and any other relief which the Court will deem fit.

Upon hearing the Petitioner and the Petition not contested but consented by the Respondent, on 26th August, 2016 this Court finds that the marriage solemnised by the Petitioner and the Respondent on 24th April, 2011 at the Office of the Registrar of Marriages at Lusaka Civic Centre, Lusaka has broken down irretrievably ***I therefore dissolve the marriage with immediate effect*** as per Section 9 (d) of the Matrimonial Causes Act which states:

(d) "that the parties to the marriage have lived apart for a continuous period of at least two years immediately preceding the presentation of the petition and the respondent consents to a decree being granted."

The Respondent will be granted full custody of the sole child of the family namely **David Daniel Mulondiwa** and the Petitioner will be given access to the said child as and when need arises. Both parties to take care of the only child of the marriage in terms of maintenance and upkeep.

DELIVERED THIS^{12th}.....DAY OF.....^{June}.....2017.

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E.M. SIKAZWE
JUDGE