

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

**2017/HP/D0089**

*(Divorce Jurisdiction)*

**BETWEEN:**

**GUSTIVE CHILEMBO**

**AND**

**CHLESHE NJAVWA MULUNDA**



**PETITIONER**

**RESPONDENT**

*For the Petitioner: In person*

*For the Respondent: In Person*

---

**J U D G M E N T**

---

**LEGISLATION REFERRED TO:**

- (i) *The Marriage Act Chapter 50 of the Laws of Zambia*
- (ii) *Matrimonial Causes Act No.20 of 2007*

This is a matrimonial petition launched by **Gustive Chilembo** herein referred to as the Petitioner against the Respondent **Chileshe Njavwa Mulunda** for the dissolution of marriage which was celebrated under the ***Marriage Act<sup>1</sup>*** on 29<sup>th</sup> December, 2007 on the ground that the marriage has broken down irretrievably on account of the situational fact the Respondent has behaved so unreasonably that the Petitioner cannot reasonably be expected to

stay with her pursuant to Section 8 and 9 of the ***Matrimonial Causes Act***<sup>2</sup>.

At the hearing of the Petition, I was satisfied that the Respondent had been duly served with the petition and other accompanying documents on the basis that the Respondent was in attendance.

I therefore allowed the Petitioner to present his petition.

PW1 was Gustive Chilembo the Petitioner himself. He gave sworn evidence. It was his evidence that the Petitioner and the Respondent were lawfully married on 29<sup>th</sup> December, 2007 under the Marriage Act<sup>1</sup> as evidenced by the marriage certificate which is exhibit P.1.

At the time of the marriage, the Petitioner was working as a mechanic whilst the Respondent was unemployed. After the marriage, the parties lived as man and wife at 4 Villa Bianca Drillwook, Gemstone, Johannesburg in the Republic of South Africa.

Both parties are domiciled in Zambia. There are 2 children of the family namely:-

- (i) Towela Chilembo (female) born on 9<sup>th</sup> March, 2009;
- (ii) Gustive Chilembo (male) born on 11<sup>th</sup> November, 2015.

There is a child of the Respondent before marriage namely Ewvilanji Chilembo.

There are no arguments that have been made for the children of the family. There are no proceedings subsisting in Zambia or anywhere in the world that might affect the validity of the marriage or matrimonial property settlement.

It was his evidence that the marriage had irretrievably broken down on account of the unreasonable behaviour of the Respondent. Giving particulars of unreasonableness he narrated that:

- (i) Whilst in South Africa on a date, month, year he could not recall the Respondent attempted to commit suicide by ingesting some unknown drugs. The Petitioner administered first aid by giving her milk and the crisis was resolved. The Respondent was counseled.
- (ii) Whilst in Kafue, the Respondent also attempted to commit suicide on an unknown date. The Respondent attempted to commit suicide following some matrimonial agreement. This time she picked a knife and threatened to kill herself, the children and the Petitioner much to his terror.
- (iii) Upon the family shifting to Garden House in Lusaka, Respondent verbally threatened the Petitioner that she would do something to her which as far as she was concerned she would not even regret.
- (iv) That his work entails working late hours. Respondent told the Petitioner that thence forth the Petitioner should be

opening for himself the gate and front door so that he doesn't interfere with the Respondents peaceable sleep and that of the children. She then ceased to undertake any household chores. Petitioner was obliged to be hiring people to do the washing of clothes and preparing his own meals much to his disenchantment.

- (v) It was his testimony that the two families of the Petitioner and the Respondent had tried in vain to counsel her.

He concluded by saying he feared for his life. And in the event something happened to her he will remain in problems. It is for these reasons that he prayed for a decree nisi.

He prayed to be heard on

- (a) On the custody of the children;
- (b) their maintenance;
- (c) That costs be in the cause.

The Petitioner was not cross examined. He accordingly closed his case.

The Respondent opted not to say anything.

I should start by observing that there was no answer to the Petition. The evidence thus being totally unchallenged, I accept the version of events as narrated by the Petitioner. For the Respondent to be threatening to kill herself or threaten stabbing herself, the children

and the Petitioner every time there is a matrimonial disagreement indeed constitutes unreasonable behavior.

I am therefore satisfied that the marriage which was celebrated on 29<sup>th</sup> December, 2007 between the Petitioner and the Respondent has broken down irretrievably pursuant to Sections 8 and 9 of the Matrimonial Causes Act<sup>2</sup>, and that the Petitioner cannot reasonably be expected to stay with the Respondent.

I accordingly grant a **decree nisi pursuant to Section 41 of the Matrimonial Causes Act<sup>2</sup>** and I make the following orders:-

- (1) The decree nisi shall become absolute after six weeks from the date hereof unless cause is shown why the same should not be made absolute.
- (2) I refer the issue of custody of the children of the family to myself in chambers on application by either party within 30 days from the date hereof in default of agreement.
- (3) I refer the issues of
  - (a) Maintenance of the Respondent;
  - (b) Maintenance of the children of the family;
  - (c) Property settlement (if any) within 30 days from the date hereof on application by either party in default of agreement.

(4) I will make no order as to costs. Put differently, each party is to bear its own costs.

Leave to appeal to the Court of Appeal granted.

**Delivered under my hand and seal this 20<sup>th</sup> day of June, 2017**



---

**Mwila Chitabo, SC  
Judge**