

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

2017/HPF/D/240

BETWEEN:

SHADRECK MILANZI

AND

KWIMA MILANZI



PETITIONER

RESPONDENT

**Before the Hon. Mr. Justice M.L. Zulu
in Chambers on the.....day of August, 2017**

For the Petitioner: Ms. K. Parshotam, Messrs Andrew and Partners.

For the Respondent: Ms. C. Jere, National Legal Aid Clinic for Women.

J U D G M E N T

The Petitioner and Respondent are Zambians who were married under the Marriage Act of the Laws of Zambia on 26th April, 2014 at the Civic Centre, Lusaka. After the marriage the parties lived together

and habitually resident as husband and wife at National Housing flats, Nyumba Yanga, Lusaka.

On 29th September, 2017, the Petitioner petitioned for the dissolution of marriage on the ground that the marriage has broken down irretrievably on account of the fact that the parties have lived apart for a continuous period of atleast two years immediately preceding the presentation of the Petition, and the Respondent has consented to a decree being granted.

The parties have a daughter between them namely Keziah Milanzi, aged 3 years, and the Respondent seeks custody of the child of the family.

The sole ground upon which this Court can dissolve a marriage is to find that the marriage has broken down irretrievably (Section no. 20 of 2007). There is evidence upon reading the Petition and upon hearing the parties, that the marriage between Shadreck Milanzi and Kwima Milanzi (Nee N'gambi) has broken down irretrievably on account of atleast two years separation.

I am therefore satisfied that the Petitioner has satisfied Section 9 (1) (d) of the Matrimonial Causes Act which provides:

“For the purposes of Section 8, the court hearing a petition for divorce shall not hold the marriage to have broken down irretrievably unless the Petitioner satisfies the court of one or more of the following facts;...

(d) That 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 the decree being granted.

To this effect the Petitioner has produced the written Consent of the Respondent to the dissolution of the marriage.

I am also satisfied that there is no likelihood of the parties resulting cohabitation.

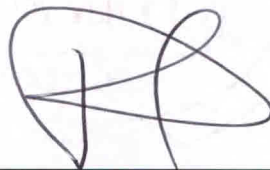
In the circumstance, I hereby grant the Petitioner a decree nisi of divorce. I direct that the said decree shall be made absolute at the expiration of six weeks from the date of this judgment upon application by either party, unless good cause be shown otherwise.

I further grant the Respondent custody of the child of the family, Keziah Milanzi with reasonable access to the Petitioner.

All issues that may arise relating to maintenance and property settlement are referred to the learned Registrar of the High Court for determination. Each party is at liberty to apply.

I order that each party shall bear his/her own costs of this suit.

Delivered at Lusaka this 15th day of November, 2017.

A handwritten signature in black ink, consisting of a large, stylized 'Z' followed by a vertical line and a loop.

M.L. ZULU
HIGH COURT JUDGE