

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

2017/HPF/D144



BETWEEN:

ROUHALLAH KARNIB

PETITIONER

AND

ISRAA AWADA MAKKI

RESPONDENT

For the Petitioner:

*Mr. Hobday Kabwe of Messrs Hobday
Kabwe and Company*

For the Respondent:

Israa Awada Makki – In Person

JUDGMENT

Legislation referred to:

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

This was a Matrimonial Petition launched by the Petitioner against the Respondent for the dissolution of marriage anchored on Section 9 (i) (d) of the Matrimonial Causes Act¹.

At the hearing of the Petition, I was satisfied that the Respondent had been duly served with the Court process as evidenced by the filing in of the acknowledgment of service of proceedings and the

filing of the consent order for a decree nisi. I was further fortified in my view by the appearance of the Respondent at the said hearing. I therefore allowed the uncontested Petition to be presented.

PW1 was **Rouhallah Karnib** the Petitioner himself a Director in Lucky Brothers Limited. He gave affirmed evidence. It was his evidence that on 13th February, 2013, he was lawfully married to the Respondent **Israa Awada Makki** under the **Marriage Act**¹ before the Registrar of Marriage at Lusaka as evidenced by exhibit P1 (the marriage certificate). The parties then cohabited as husband and wife at Plot No. 14020 off Katima Mulilo Road, Olympia in Lusaka.

Both parties are domiciled in Zambia. There is one child of the family now living namely **Mohamed Amin Karnib** (male) born on 2nd May, 2014 and attends school at Kids Paradise Nursery School.

There is no other child born of the parties apart from the said named child of the family. There is no arrangement for the child. There are no proceedings subsisting in Zambia or elsewhere in the world that might affect the validity of this marriage or property settlement.

It was his evidence that the marriage has broken down irretrievably on account of the fact that the parties have lived apart for at least 2 years immediately preceding the presentation of the Petition and that the Respondent consents to the **decree nisi** as evidenced by exhibit P2.

That the parties upon dissolution of marriage be granted joint custody of the child.

The Petitioner was not cross examined.

DW1 was **Israa Awada Makki**, a housewife. She in all material aspects confirmed the evidence of the Petitioner and prayed for the dissolution of marriage as prayed by the petitioner.

She was not cross examined.

Having considered the Petition and the supporting documents filed herein and having heard the parties, I am satisfied that the marriage which was lawfully celebrated on 13th February, 2013 under the Marriage Act¹ has irretrievably broken down on the situation fact that the parties have lived apart for atleast 2 years and the Respondent consents to the decree nisi, pursuant to Section 8 and 9 of the Act No. 20 of the Matrimonial Causes Act of 2007.

I therefore grant the decree nisi pursuant to Section 41 of the **Matrimonial Causes Act²** and I make the following orders:

- (1)The decree nisi shall become absolute after 6 weeks unless cause is shown why the same ought not to be made absolute.
- (2)I grant joint custody of the infant **Mohamed Amin Karnib** to both the Petitioner and the Respondent.
- (3)The issues of (i) maintenance of the Respondent and the child of the family (ii) property settlement are referred to the Learned

Deputy Registrar for determination within 30 days from the date hereof in default of agreement on application by either party.

(4) Each party shall bear his or her own costs.

Delivered under my hand and seal this 12th day of December, 2017

A handwritten signature in blue ink, consisting of several overlapping, stylized strokes.

Mwila Chitabo, SC
Judge