

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



B E T W E E N :

MWANGALA MUNALULA

PETITIONER

AND

BELINDA JONES

RESPONDENT

**Before Honorable Mrs. Justice M. Mapani-Kawimbe in Chambers
on 10th April, 2017**

*For the Petitioner : In Person
For the Respondent : In Person*

J U D G M E N T

Legislation Referred To:

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

The amended Petition for dissolution of marriage was filed on 29th March, 2017, by Mwangala Munalula, the Petitioner. The

Petition is presented pursuant to sections 8 and 9 (1) (d) of the Matrimonial Causes Act.

It is common cause that the Petitioner, Mwangala Munalula, then a Bachelor and the Respondent, Belinda Jones were lawfully married on 31st August, 2013, before the Registrar of Marriages, in Lusaka. The Petitioner and Respondent last lived as husband and wife at House No. 288, Sable road, Kabulonga, Lusaka in December, 2014.

The Petitioner is an Agricultural Manager at Conventry Hock Conventry and resides at House No. 0208 Chilimbulu Road, Kabwata, Lusaka while the Respondent is a Sales Executive at Telpus Communications and resides at House No. 1128, Salama Park, Lusaka. There are three children born to the Petitioner and Respondent during the subsistence of their marriage.

There are no other proceedings in any Court in Zambia or elsewhere regarding the marriage or between the Petitioner and

the Respondent regarding any property of either or both of them and there is no proceedings continuing in any Court outside Zambia which are in respect of the marriage or are capable of affecting its validity or subsistence.

It is the Petitioner's testimony that the marriage has broken down irretrievably by reason of the fact that the parties have lived separate and apart for a continuous period of at least two years immediately preceding the presentation of this Petition, from December, 2014 to date.

At trial, the Petitioner confirmed the contents of his Petition. The Respondent was present and confirmed that she was not contesting the Petition and she consents to the dissolution of the marriage.

I have seriously considered the Petition filed in this matter. The only ground upon which a petition for divorce may be presented to the Court is provided in section 8 of the Matrimonial Causes Act which states thus:

“A Petition for divorce may be presented to the Court by either party to the marriage on the ground that the marriage has broken down irretrievably.”

In order to prove that the marriage has broken down irretrievably, the Petitioner should satisfy the Court of one or more of the facts set out in section 9 (1) (a) to (e) of the Act. Section 9 (1) (d) which is relevant to the Petition under consideration provides as follows:

“9 (1) For the purposes of section eight, 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 the parties to the marriage have lived apart for a continuous period of at least two years immediately preceding the presentation of the of the petition and the Respondent consents to a decree being granted.”

This being an undefended Petition, I find that it is not necessary to give a lengthy judgment. Suffice it to state that upon the facts stated in the Petition and confirmed by the Petitioner in his oral testimony, I am satisfied that the marriage has broken down irretrievably on the ground that the Petitioner

and the Respondent have lived separate and apart for a continuous period of at least two years immediately preceding the presentation of this Petition, that is from December 2014 to date. They are not willing to reconcile.

I am satisfied that the Respondent does not oppose the granting of a decree nisi.

I therefore dissolve the marriage between the Petitioner and Respondent celebrated on 31st August, 2013 as prayed by the Petitioner and accordingly grant a decree nisi. The decree nisi will be made absolute six weeks from the date of this judgment.

Either party is at liberty to apply for custody. The question of property settlement will be determined by the Learned Deputy Registrar upon application by either party.

Each party will bear their costs.

Dated this 10th day of April, 2017

M. Mapani

M. Mapani-Kawimbe
HIGH COURT JUDGE