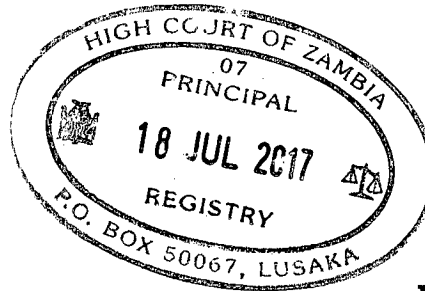


**IN THE HIGH COURT FOR ZAMBIA
AT THE PRINCIPAL REGISTRY
HOLDEN AT LUSAKA**
(Divorce Jurisdiction)

2017/HPF/D127



BETWEEN:

GRACE ZULU MOYO

PETITIONER

AND

THOMAS MOYO

RESPONDENT

BEFORE HONORABLE JUSTICE MR. MWILA CHITABO, SC

For the Petitioner: Grace Zulu (In person)

For the Respondent: Thomas Moyo (In perso)

RULING

Legislation referred to:

(i) *Matrimonial Causes Act No.20 of 2007 of the Laws of Zambia*

This is an application for Order of Matrimonial injunction pursuant to Section 100 of the Matrimonial Causes Act¹ pending the determination of the Petitioners' petition for judicial separation.

The application is supported by an affidavit deposed to by the Petitioner herself. The essence of which is that of late the

relationship between the parties herein has soured and has reached a very bad point.

She deposes that the Respondent's violent behavior is ungovernable. He has no respect for the Petitioner nor for her relatives or work mates. It was her deposition that the Respondent has an objectionable habit of taking the girl child of the family (name withheld for the protection of 3½ years infant) of taking the child late after picking her from school and on 2 occasions spent nights out with the child from the usual home without disclosing and or communicating that he was going to sleep with child out.

It was her further deposition that the Respondent is of uncouth language and he insults the Petitioner without cause openly in the presence of any person or persons who might happen to be at the scene.

It was her deposition that the Respondent who now fears and dreads in using the child to entrap her in order to get to terms with her.

She concluded by saying she fears for her life and does not want to live a miserable life under the hands of the Respondent. She thus prayed for the matrimonial injunction.

The application was opposed by the Respondent. The gravamen of his affidavit was that presently the relationship is not conducive and there is room for reconciliation and that is why he has involved the church to try to effect reconciliation.

The Respondent denies being violent nor abusive but grudgingly admits that sometimes there are differences which prompted him to react to the Petitioners insults.

He admits taking the child out but points out that this is purely to take the child to his relatives to see her. He prayed to the Court to deny the Matrimonial petition.

I had declined to grant the matrimonial ex-parte and ordered that the same be heard interparte so that I could hear both parties. At the hearing both parties opted to rely on their respective affidavits.

It is common cause that:-

- (1) Presently there is serious disharmony and turbulent relationship between the parties;
- (2) The Respondent admits though in a veiled manner sometimes being abusive and physical, though he attributes it to the Petitioners insults.
- (3) The Respondent has not specifically denied having taken the child of the family over night on 2 occasions and not disclosing the whereabouts of the child to the Petitioner much to her distress.

On the outset, I will take judicial notice of the slaughters of spouses at the hands of each other and one another. These scourges are spiraling to dangerous and very worrisome levels. This Court will not wait to put in place prompt interventions when the ugly head of

abusive language and physical violence rears its ugly head, to avoid calamities.

The fact that the church is being engaged in exploring prospects of excuria resolution of the matrimonial disharmony is no answer to the volatile situation between the parties.

I have no difficulty in reaching upon a very firm view that this is a fit and proper case to grant the matrimonial injunction pursuant to Section 100 of the Matrimonial Causes Act¹.


The application for matrimonial injunction is granted. It is further hereby ordered as follows:-

1. That the Respondent, whether by himself or servants, agents and whatsoever be and are hereby restrained from entering into the Petitioners premises, taking away the known girl child of the family, interfering and or any other intent to the quiet enjoyment of the Petitioner at her residence at plot 206/0/59 Chadleigh, Lusaka.
2. The Respondent is forbidden from approaching within 100 meters from the Petitioners residence and further forbidden in approaching within 100 meters from the Petitioners work premise until the determination of the **Judicial Separation Petition** or until a further order of the Court.
3. It is further ordered that if you the within named **Thomas Moyo** should disobey the within order, by yourself or by your servants or by your agents howsoever disobey this Order you

shall be summarily committed to prison upon proof of such non compliance or disobedience.

At this stage I will make no order as to costs. Leave to Appeal to the Court of Appeal is granted.

Given under my hand and seal this 17th day of July, 2017



Mwila Chitabo, SC

Judge