

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

**2016/HP/D235**



**BETWEEN**

**BRENDA MULENGA MAMBWE MUDENDA**

**PETITIONER**

**AND**

**CHANCE MULAMFU MUDENDA**

**RESPONDENT**

*Before the Honorable Lady Justice C. Lombe Phiri in Chambers*

*For the Petitioner : Mr H. H. Ndhlovu S.C. Messrs H. H. Ndhlovu & Co*

*For the Respondent : Mr Lungu – Suba Tafeni & Associates*

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

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This is the matrimonial Petition launched by the Petitioner, **BRENDA MULENGA MAMBWE MUDENDA**, against the Respondent, **CHANCE MULAMFU MUDENDA** for the dissolution of marriage alleging that the marriage which was lawfully celebrated on the 16<sup>th</sup> June, 2011 at the office of the Registrar of Marriages under the Marriage Act had irretrievably broken down.

The ground is that the Petitioner and the Respondent have continuously lived apart as man and wife for a period of at least 2 years immediately preceding the presentation of the Petition and that the Respondent consents.

At the hearing of the Petition , I was satisfied that the Respondent had been duly served with process as evidenced by the consent to the decree nisi filed into Court on 6<sup>th</sup> December, 2018. I was fortified in my view by the fact that the Advocate for the Respondent appeared at the hearing. I therefore signaled the Petitioner to present her matrimonial petition.

**PW1** was **BRENDA MULENGA MAMBWE MUDENDA**, the Petitioner herself. She gave sworn evidence. It was her testimony that the Petitioner was on 16<sup>th</sup> June, 2011 married to the Respondent under the Marriage Act at the office of the Registrar of Marriages at the Civic Center in Lusaka as evidenced by the Marriage Certificate admitted as exhibit P1.

After the celebration of marriage, the parties lived as husband and wife and last lived together on 1<sup>st</sup> August, 2013. The Petitioner is a Community Development Officer while the Respondent is a District Registrar in Sinazongwe. Both parties are domiciled in Zambia.

There is one child of the family namely Choolwe Christabel Mulamfu, born on 1<sup>st</sup> September, 2011. There are no other children born of the parties before or during the subsistence of the marriage.

There are no proceedings subsisting in Zambia or elsewhere in the world that might affect the validity of the marriage and property settlement.

It was her testimony that the marriage has broken down irretrievably on the ground that the parties have continuously lived apart as man and wife for a



continuous period of at least 2 years immediately preceding the presentation of the petition and the Respondent consents to the dissolution of marriage as evidence by the consent dated 6<sup>th</sup> December 2018 admitted as exhibit P2.

The Petitioner concluded by praying for the dissolution of the marriage. The Petitioner was not cross examined. The Petitioner then rested her case.

The Respondent did not appear at the hearing of the matter. It is however, on record that he appeared before the Court preciously and is not contesting the divorce on the grounds of two years living apart. This was confirmed by his lawyer who was present at the hearing.

Upon reading the Matrimonial Petition of the Petitioner and UPON hearing the evidence of the Petitioner and UPON sight and perusal of the Marriage Certificate, exhibit P1, and UPON sight and perusal of the Respondents Consent to the decree filed on 6<sup>th</sup> December, 2018, I am satisfied that the marriage which was lawfully celebrated on the 16<sup>th</sup> day of June, 2011 under the Marriage Act at the Lusaka Civic Center has irretrievably broken down on account of the fact that the parties have continuously lived apart as husband and wife for at least 2 years immediately preceding the presentation of the matrimonial petition pursuant to Section 8 and 9 (1) (d) of the Matrimonial Causes Act as evidenced by exhibit P2.

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

- (i) The *Decree Nisi* shall become absolute after 6 weeks unless cause is shown why the same cannot be made absolute.
- (ii) Custody of the child of the family is granted to the Petitioner with the Respondent enjoying reasonable access. Either party is at liberty to apply in default of agreement.
- (iii) I refer the following issues to the Learned Deputy Registrar for determination:
- a. Maintenance of the child of the family;
  - b. Maintenance of the parties;
  - c. Property settlement (If any);
- The applications should be made within 30 days from the date hereof on application by either party in default of agreement.
- (iv) Each party to pay their own costs.

No appeal lies against a consented to decree nisi dissolving the marriage.

Note must be made that this Judgment has delayed in its delivering. The delay is deeply regretted.

**Delivered under my hand and seal this 11<sup>th</sup> day of September, 2020.**



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**C. LOMBE PHIRI**  
**JUDGE**