

**IN THE HIGH COURT FOR ZAMBIA  
AT THE PRINCIPAL REGISTRY  
HOLDEN AT LUSAKA**

*(Divorce Jurisdiction)*

**2018/HPF/D384**



**BETWEEN:**

**MISOZI MASANI SINAMUSANGA SMITHERS**

**PETITIONER**

**AND**

**RICKY LEE SMITHERS**

**RESPONDENT**

**CORAM: HONORABLE MRS. JUSTICE C. LOMBE PHIRI**

*For the Petitioner:*

*Ms. N. Muma - NLACW*

*For the Respondent:*

*N/A*

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## **JUDGMENT**

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**Legislation referred to:**

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

This is a matrimonial Petition launched by the Petitioner **MISOZI MASANI SINAMUSANGA SMITHERS** against the Respondent **RICKY LEE SMITHERS** for the dissolution of marriage alleging that the marriage which was lawfully celebrated on the 25<sup>th</sup> September,

2016 at the office of the Registrar of Marriages under the Marriage Act had irretrievably broken down.

The ground is that the Respondent has behaved in such a way that the Petitioner cannot reasonably be expected to live with him.

At the hearing of the petition, I was satisfied that the Respondent had been duly served with process as evidenced by the acknowledgement of service by the Respondent.

I therefore signaled the Petitioner to present her matrimonial petition.

**PW1** was **Misozi Masani Smithers** the Petitioner herself. She gave sworn evidence. It was her testimony that the Petitioner was on 21<sup>st</sup> day of September, 2016 lawfully married to the Respondent under the Marriage Act<sup>1</sup> at the office of the Registrar of Marriages at the Civic Centre, Lusaka as evidenced by the marriage certificate admitted as exhibit P1.

After the celebration of marriage, the parties lived as husband and wife at Plot No. 92 Makeni, Lusaka and finally in Greensboro North Carolina, USA.

The Petitioner is a businesswoman whilst the Respondent is a Sales and Marketing Specialist. The Petitioner is domiciled in Zambia. Whilst the Respondent is domiciled in the USA.

There are no children of the family.

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 Respondent had behaved in such a way that she could not reasonably be expected to live with the Respondent. The alleged behavior constituted of the conduct of the Respondent when he was drunk causing the Petitioner to fear for her life. He also stopped her from associating with his family or relations.

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

The Respondent was not present at the hearing despite receiving the Notice of Hearing.

And according to his Acknowledgement of Service he was not desirous to defend the case.

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 being exhibit P1

I am satisfied that the marriage which was lawfully celebrated on the 21<sup>st</sup> day of September, 2016 under the Marriage Act at Civic Centre, Lusaka has irretrievably broken down on account of the fact that the Respondent has behaved in such a way that the Petitioner cannot seasonably be expected to live with him.

Pursuant to Section 8 and 9 (1) (b) of the Matrimonial Causes Act<sup>2</sup> .

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) Each party to pay his or her own costs.

Leave to Appeal is granted.

**Delivered under my hand and seal this 6<sup>th</sup> day of February, 2020.**



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**C. LOMBE PHIRI  
JUDGE**