

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

2020/HPF/D143



BETWEEN:

STELLAH MUNGAILA ITODO

PETITIONER

AND

ZACKARY INEDU ITODO

RESPONDENT

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

*For the Petitioner:*

*In Person*

*For the Respondent:*

*N/A*

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## J U D G M E N T

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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 Judgment on a matrimonial Petition launched by the Petitioner **STELLAH MUNGAILA ITODO** against the Respondent **ZACKARY INEDU ITODO** for the dissolution of marriage alleging that the marriage

which was lawfully celebrated on the 24<sup>th</sup> January, 2014 at the office of the Registrar of Marriages under the Marriage Act had irretrievably broken down.

The ground is that the Respondent had deserted the Petitioner for a period of atleast 2 years immediately preceding the presentation of the matrimonial petition and 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 affidavit of service filed into Court on 19<sup>th</sup> August, 2020.

I therefore signaled the Petitioner to present his matrimonial petition.

PW1 was **STELLAH MUNGAILA ITODO** the Petitioner herself. She gave sworn evidence. It was her testimony that the Petitioner was on 24<sup>th</sup> day of January, 2014 lawfully married to the Respondent under the Marriage Act<sup>1</sup> at the office of the Registrar of marriages at the Lusaka Civic Center as evidenced by the marriage certificate admitted as exhibit P1.

After the celebration of marriage, the parties lived as husband and wife at No. 34193/1080, Paul Ngozi Road, Kamwala South, Lusaka.

The Petitioner is a Programme and Training Specialist whilst the Respondent is self-employed.

Both parties are domiciled in Zambia.

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 had broken down irretrievably on the ground that the Respondent had deserted the Petitioner for a continuous period of at least two years preceding the presentation of the petition and the Petitioner had no idea where the Respondent was and that the Petitioner concluded by praying for the dissolution marriage. The Petitioner was not cross examined. The Petitioner then rested his case.

The Respondent was not present before Court and had shown no reasonable cause to be absent.

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

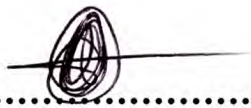
I am satisfied that the marriage which was lawfully celebrated on the 24<sup>th</sup> day of January, 2014 under the Marriage Act at Lusaka Civic Center has irretrievably broken down on account of the fact that the Respondent has deserted the Petitioner for at least 2 years immediately preceding the presentation of the matrimonial petition pursuant to Section 8 and 9 (1) (c) 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.

**Delivered under my hand and seal this 25<sup>th</sup> day of August, 2020.**

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