

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

2016/HP/D214

BETWEEN:

SORAYA GELOO MEYER

AND

DERICK HUSSEIN MEYER



PETITIONER

RESPONDENT

CORAM: HONORABLE JUSTICE MR. MWILA CHITABO, SC

*For the Petitioner: Ms. Nana Mpande of Messrs National
Legal Aid Clinic for Women*

For the Respondent: Mr. Derrick Hussein Meyer

J U D G M E N T

Legislation referred to:

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

On 4th August, 2016 launched a Matrimonial Petition against the Respondent **Derrick Hussein Meyer** premised on the ground that the marriage has broken down irretrievably on the situational fact

that the parties had lived apart as husband and wife for a period of atleast 2 years preceding the presentation of the matrimonial petition.

At the time of hearing the Learned Attorney for the Petitioner appeared together with the Petitioner. The Respondent was also in attendance. The Respondent was also in attendance. I was therefore satisfied that the Respondent had been duly served with the Petition and the accompanying documents. I therefore allowed the Petitioner to present her Petition.

PW1 was the Petitioner herself. She gave sworn evidence. Her concise evidence was that on 27th October, 2010 she was lawfully married to the Respondent at the Lusaka Civic Centre under the Marriage Act as evidenced by a marriage certificate which was admitted in evidence as exhibit "P1".

The parties then lived together as man and wife at house 9719 street, Chudleigh, Lusaka. At the time of marriage the Petitioner was working as a Heavy Duty Mechanic whilst the Respondent was working as an insurance officer.

Both parties are domiciled in Zambia. There are 3 (three) children of the family namely:-

- (i) Michaela Meyer (male) born on 3rd October, 2011;
- (ii) Michael Meyer (male) born on 3rd October, 2011, the two are twins;
- (iii) Raphael Meyer (male) born on 24th April, 2014

There are no other children born of the parties. It was her testimony that there are no proceedings elsewhere in Zambia nor anywhere in the world that might affect the validity of the marriage, nor that may affect matrimonial property.

It was testimony that there is no written agreement as to the arrangement of the children.

The marriage has broken down irretrievably on the situational fact that the parties have lived apart for atleast 2 years preceding the presentation of the petition. The parties have lived apart since October, 2013 and that the Respondent consents as evidenced by exhibit P2 being a consent signed on 4th August, 2016.

She finally prayed for

- (i) *The dissolution of marriage*
- (ii) *Order of the custody of the 3 children of the family*
- (iii) *Order for maintenance of the children.*

The witness was not cross examined and the Petitioner rested her case.

The Respondent gave evidence on oath. Presently he was working as a truck driver. It was his testimony that the evidence as narrated by the Petitioner was correct. The marriage has indeed broken down irretrievably on the situational fact that the parties have lived apart for atleast 2 years preceding the presentation of the Petition.

He consents to the divorce as evidenced by exhibit P2 which is still valid and he has not withdrawn his consent.

Respondent rested his case.

Having heard the evidence of both parties and having perused the marriage certificate being exhibit "P1" and exhibit "P2" being the marriage certificate.

I am satisfied that the marriage which was lawfully celebrated on 27th October, 2010 at the Lusaka Civic Centre between **SORAYA GELOO MEYER** and **DERRICK HUSSEIN MEYER** under the **Marriage Act**¹ has irretrievably broken down pursuant to section 9 (i) (d) of the **Matrimonial Causes Act**² and that the Respondent consents to the decree nisi.

I therefore invoke the provisions of **Section 41 of the Matrimonial Causes Act**² and grant the decree nisi and make the following orders:-

- (i) *The decree nisi shall become absolute within 6 weeks from the date hereof unless cause is shown why the same cannot be made absolute.*
- (ii) *I refer the issue of custody of the children to myself in chambers within 30 days from the date hereof on application by either party in default of agreement.*
- (iii) *I refer to the issues of maintenance of the parties, the maintenance of the children and property settlement to the*

Learned Deputy Registrar within 30 days from the date hereof on application of either party in default of agreement.

(iv) *The costs shall be in the cause.*

Delivered under my Hand and Seal at Lusaka

This 4th Day of November, 2016



**Mwila Chitabo, SC
Judge**