

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

2016/HP/D.0184

BETWEEN:

CHISHALA BUFUMA

AND

NYAMUTUMA MWANDILA BUFUMA



Petitioner

Respondent

Delivered before the Hon. Mrs. Justice G. Milimo-Salasini on the 26th day of December, 2017.

For the Petitioner: In Person

For the Respondent: In Person

J U D G M E N T

Legislation referred to:

- 1. Matrimonial Causes Act, Number 20 of 2007 of the Laws of Zambia.*

This is a Petition for dissolution of marriage Pursuant to **Section 9 (1) (e) of Matrimonial Causes Act No. 20 of 2007 of the Laws of Zambia** filed by the Petitioner, Chishala Bufumu on the 13th July, 2016. The Petition shows that **Chishala Bufumu** was lawfully married to **Nyamutuma Mwandila Bufumu** at the Registrar of Marriages at Civic Centre, Lusaka City of the District of Lusaka in the Republic of Zambia on 7th July, 2012.

The Petitioner and the Respondent thereafter resided at House No. 9, Calcium Street, Kamwala South, Lusaka as husband and wife. Both the Petitioner and the Respondent

are domiciled in the Republic of Zambia. The Petition also shows that the Petitioner is a Key Accounts Manager at Airtel Networks Zambia PLC and the Respondent is a Secondary School Teacher employed by the Republic of Zambia. That there are no proceedings in Zambia or elsewhere with reference to this marriage containing which can affect its validity or its subsistence. That there is one male child born on 24th January, 2010 outside wedlock from the Petitioner known to both the Petitioner and the Respondent. That there is one female child born on 16th December, 2014 from both the Petitioner and the Respondent.

That the parties to this marriage have lived apart for a period of two (2) years. The Petitioner states that the marriage has broken down irretrievably.

The Particulars of the unreasonable behavior are;

- a. That the Respondent has behaved in such a way that the Petitioner cannot reasonably be expected to live with the Respondent in that she has refused to accept the Child born of the Petitioner before the said marriage in their matrimonial home.

The Petitioner prays for;

- a. That the said marriage be dissolved.
- b. That a Decree Nisi be granted.
- c. The cost of these proceedings be in the cause.

On the 21st July, 2017 the Petitioner filed into court an Application Requesting for Directions for a trial date. The Application was granted on the 25th July, 2017 by the Honourable Deputy Registrar of the High Court.

On the 16th August, 2017 the matter commenced trial and both the Petitioner and the Respondent were present before court.

The Petitioner testified before court under oath that he and the Respondent separated on 26th May, 2014 and that they have lived separately since then. The Petitioner also

stated that prior to their separation there were issues regarding his son born outside wedlock from the Petitioner, who had come to live with the Petitioner and the Respondent as stated in the particulars of unreasonable behavior.

According to the child born from the Petitioner and the Respondent, the Petitioner proposed a Joint Custody with liberal access to the Respondent. The Petitioner also stated that he will give one hundred percent (100%) Educational support to his child and monthly up keep when their child is with the Respondent.

The Petitioner further stated that according to his knowledge, the Respondent was not contesting the divorce. The Petitioner also stated that there was no property settlement to be considered except some of the household property and two vehicles which have already been shared between the Petitioner and the Respondent.

The Petitioner closed his testimony.

The Respondent also testified under oath and confirmed that she consents to the Divorce Petition filed against her and that she can no longer be expected to live with the Petitioner.

The Respondent told the court in her testimony that she is concerned with their child's safety and health. This is because the Petitioner on the issue of access to the child is erratic and that the Petitioner is not yet familiar with their child's chronic condition. The Petitioner has also refused to agree with the Respondent on the education centre to take their child to despite all the reasons the Respondent has given of their child's asthmatic condition.

The Respondent told the court that there is no property to settle between the Petitioner and the Respondent.

The Respondent closed her testimony.

After considering the evidence, I am satisfied that the marriage has broken down irretrievable.

Due to the evidence deposed regarding the child's chronic condition that will require close supervision, I **ORDER** that the child of the family shall remain in the custody of the Respondent with reasonable access for the Petitioner.

I also **ORDER** Joint Financial maintenance for the child.

I therefore **GRANT** the Petitioner a **DECREE NISI** for divorce, which shall not be made Absolute until after the expiration of six (6) weeks from the date hereof.

Dated this on 26th day of December, 2017.



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Hon. Mrs. Justice G. Milimo-Salasini
HIGH COURT JUDGE