

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

2024/HPF/D242

BETWEEN:

MUTENDE WINA MWAMBA

AND

MULENGA MWAMBA



PETITIONER

RESPONDENT

*Before the Honourable Mrs. Justice M.M. Bah-Matandala
Dated this 13th May, 2024.*

*For the Petitioner: Messrs. H.M. Munsanje & Company
For the Respondent: In Person*

J U D G M E N T

LEGISLATION REFERRED TO:

1. THE MARRIAGE ACT CHAPTER 50 OF THE LAWS OF ZAMBIA
2. THE MATRIMONIAL CAUSES ACT NO. 20 OF 2007 OF THE LAWS OF ZAMBIA
3. THE MATRIMONIAL CAUSES RULES 1977.

1.0 INTRODUCTION

- 1.1 On 10th April 2024 **Mutende Wina Mwamba** the Petitioner herein filed a Divorce Petition pursuant to **Section 8 and 9(1) (d) of the Matrimonial Causes Act No. 20 of 2007**

of the Laws of Zambia against the Respondent ***Mulenga Mwamba*** on the ground that the Petitioner and the Respondent have lived apart for a continuous period of at least Two (2) years immediately preceding the presentation of the Petition.

2.0 **THE PETITION**

- 2.1 The Petition showed that the parties were lawfully married on 27th October 2007 at the Anglican Cathedral of the Holy Cross in the city and province of Lusaka in the Republic of Zambia, ***pursuant to the Marriage Act Chapter 50 of the Laws of Zambia.***
- 2.2 The Petitioner and the Respondent immediately lived together as Husband and Wife at plot No. 34a/D Barn Motel Waterfalls, Great East Road in Lusaka. Thereafter they lived in Kuala Lumpur, Malaysia from 2015 to 2017.
- 2.3 The Petitioner and Respondent last lived together as husband and wife at plot No. 34/a Barn Motel great East Road in the city and province of Lusaka in the Republic of Zambia. Both the Petitioner and Respondent are domiciled in Zambia.

2.4 The Petitioner is an Information Technology Specialist while the Respondent is a Biomedical Specialist.

2.5 That there are Six (6) children of the family now living namely;

- i Wina Mulenga Mwamba born on 12th November 2003.*
- ii Mutale Namakando Mwamba & Nolianga Nalushalo Mwamba both born on 2nd May 2006.*
- iii Inonge Mapalo Mwamba born on 21st June 2011.*
- iv Lwanga Sophie Mwamba & Liswani Arthur Mwamba both born on 6th September 2012.*

2.8 No other child now living has been born to the Petitioner or Respondent during the marriage so far as it is known to the Petitioner.

2.9 There are no previous proceedings in the High Court in Zambia with reference to the marriage or property of either party to these proceedings. That there are no proceedings

continuing in any Court outside of Zambia in respect of the said marriage or which were capable of affecting its validity or subsistence.

2.10 There are or have been no application under any law for the support or maintenance in respect of the children of the family.

2.11 That the said marriage has broken down irretrievably by reason of the fact that the parties have lived apart for a continuous period of two years, since 2nd April 2022 immediately preceding the filing of this Petition and the Respondent consents to the *decree* being granted.

2.12 The Petitioner further prayed that;

- a) the said marriage be dissolved*
- b) the Petitioner be granted custody of the children of the family.*
- c) for an Order for property settlement and maintenance.*
- d) that each party bears their own costs.*

- 2.13 The Respondent has consented to the marriage being dissolved as indicated in the Consent filed into Court on 10 April, 2024 dated 8th April 2024.
- 2.14 On application by the Petitioner the matter was entered on the Special Procedure list on 3rd April 2024 **Pursuant to Rule 33(3) (ii) of the Matrimonial Causes Rules 1973.**
- 2.15 Upon considering the Petition herein, and the Respondent having consented to the dissolution of the marriage, this Court is satisfied that the Petitioner has sufficiently proved that the parties have lived apart for a continuous period of two years immediately preceding the filing of this Petition.
- 2.16 In light of the foregoing, it is hereby adjudged that the marriage between the parties herein has broken down irretrievably **pursuant to Section 8 and 9(1) (d) of the Matrimonial Causes Act No. 20 of 2007 of the Laws of Zambia.** The Petitioner is granted a *decree nisi* which shall become *absolute* after the prescribed statutory period of six weeks.

- 2.17 I refer the application for property settlement and maintenance to the Honourable Deputy Director.
- 2.18 I grant custody of the children of the family to the Petitioner with reasonable access to the Respondent since the Respondent is not averse to the claim by the Petitioner herein.
- 3.0 Each party to bear their own cost.
- 4.0 I order accordingly.

Dated at Lusaka, this 13th May, 2024.

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M.M.Bah-Matandala
HIGH COURT JUDGE

