

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

2025/HPF/D111

BETWEEN:

**PAUL PHILIP MANDA
AND**

TWIZA MUSONDA NACHIVULA MANDA



PETITIONER

RESPONDENT

*Before the Honourable Mrs. Justice M.M. Bah-Matandala
Dated this 11th December 2025.*

*For the Petitioner: Mr. M. Kasheka, Messrs Willa Mutofwe & Associates
For the Respondent: Mrs. M. N. E. Gondwe-Zulu Messrs. National Legal Aid
Clinic for Women (NLACW)*

JUDGEMENT

Legislation and other works referred to:

1. *Matrimonial Causes Act No. 20 of 2007*
2. *Marriage Act, Chapter 50 of the Laws of Zambia*
3. *Rayden & Jackson on Divorce and Family Matters, 16th Edition, Butterworths*
4. *Rayden's Law & Practice in Divorce & Family Matters, 11th Edition, Butterworths*
5. *The Children's Code Act No. 12 of 2022*

Cases referred to:

1. *Brighton Soko v Petronella Sakala Soko SCZ/8/189/2015*
2. *Ash v Ash (1872) Fam 135*
3. *Mahande v Mahande (1976) Z.R. 287*
4. *Mable M. Bbuku v Arthur Yoyo (SCJ No. 78 of 1998) (unreported)*
5. *Namuunda Hamalengwe Mutombo v Livian Haabula Mutombo (2009) ZR*

1.0 INTRODUCTION

1.1 This Judgment is for a Petition for dissolution of marriage brought by the Petitioner, **Paul Philip Manda**,

pursuant to **Sections 8 and 9(1)(b)** of the Matrimonial Causes Act No. 20 of 2007, on the ground that the marriage has **broken down irretrievably** because the **Respondent has behaved in such a way that the Petitioner cannot reasonably be expected to live with her.**

1.2 The relevant statutory provisions relied upon provide: **Section 8**; “*A petition for divorce may be presented... on the ground that the marriage has broken down irretrievably.* **Section 9(1)(b)**. provides that “*The Court shall not hold the marriage to have broken down irretrievably unless the petitioner satisfies the Court that the respondent has behaved in such a way that the petitioner cannot reasonably be expected to live with the respondent.*”

1.3 Further, Section 9(2) mandates this Court to inquire into the facts alleged by both parties. This duty has guided my approach throughout these proceedings.

2.0 BACKGROUND

2.1 The evidence shows that the parties were lawfully married on 17th December 2016 at Miracle Life Family

Church, Lusaka. A duplicate marriage certificate was admitted into evidence as Exhibit P1, following an order of this Court granting leave to file a duplicate.

- 2.2 The parties last cohabited as husband and wife in October 2024 at Plot 609/247B, Foxdale, Lusaka. And both parties are domiciled and resident in Zambia.
- 2.3 There is one child of the family, namely **Philip Tinofara Manda**, aged 6 years old.
- 2.4 There are no prior proceedings affecting this marriage.
- 2.5 The Petitioner asserts that the marriage has broken down irretrievably as a result of the Respondent's unreasonable behaviour, including verbal abuse, alleged anger issues, failure to maintain the home, financial secrecy, and breaking household items.
- 2.6 The Respondent filed both an **Answer** and a **Cross-Petition on 24th April 2025**, alleging that it is the **Petitioner** who behaved unreasonably, citing:
 - i. *Over-interference by Petitioner's mother*
 - ii. *Emotional and verbal abuse*
 - iii. *Withholding conjugal rights*
 - iv. *Neglect of financial responsibilities*

- v. *Undermining her role as a wife and mother*
- vi. *Lack of support after childbirth and*
- vii. *Controlling tendencies and dominance*

3.0 THE PETITIONER'S CASE

3.1 The Petitioner relies on Section 9(1)(b) and alleges that the Respondent behaved unreasonably in the following ways:

- i) *Verbal abuse towards him and his family*
- ii) *Breaking kitchen utensils in anger*
- iii) *Being untidy and ignoring his concerns*
- iv) *Being financially secretive and*
- v) *Incurring debt without his knowledge*

3.2 He further prayed that:

- i) *The marriage be dissolved*
- ii) *Custody of the child ultimately vest in the Respondent and he be granted reasonable access*

3.3 At trial, he testified relying on his Petition and authority of the duplicate marriage certificate.

4.0 THE RESPONDENT'S ANSWER AND CROSS-PETITION

4.1 The Respondent denies all allegations of unreasonable behaviour and sets out her own particulars of the Petitioner's behaviour, including:

- i. Excessive interference by the Petitioner's mother*
- ii. Petitioner's verbal abuse, belittling and emotional cruelty*
- iii. Petitioner's neglect of family responsibilities*
- iv. Denial of conjugal rights*
- v. Failure to support her during and after childbirth*
- vi. Decision-making dominated by Petitioner's mother*
- vii. Financial irresponsibility by the Petitioner*
- viii. Petitioner's refusal to attend counselling*

4.2 The Respondent therefore prays that:

- i. The marriage be dissolved*
- ii. Custody of the child be granted to her*
- iii. Maintenance be ordered for herself and the child*
- iv. Costs be borne by the Petitioner*

5.0 HEARING AND ORAL EVIDENCE

5.1 The matter came for hearing on 9th December 2025, after several adjournments. Both parties testified on oath.

5.2 The Respondent's counsel cross-examined the Petitioner at length, and the Petitioner made several material admissions, including that the Respondent takes good care of their child. That his mother did speak into their marriage as a mother in law would and that she was entering their home freely. That he had no written or independent evidence that the Respondent broke items intentionally. That he was unemployed for long periods and expected Respondent to support the home financially. That he wanted to know her salary although not for purposes of control, but for transparency. That he contributed to the home being untidy although he tried to help the situation by employing house help yet the house still remained untidy. That Respondent's family assisted her financially far more than he did.

5.3 The Respondent also testified, explaining the emotional strain which she endured postpartum, the lack of support from the Petitioner, and the emotional and psychological pressure arising from the involvement of Petitioner's mother in their marriage.

5.4 The Respondent's testimony was consistent, credible, and supported by the Petitioner's own admissions.

6.0 SUBMISSIONS

6.1 Both parties elected not to file final submissions, and the Court relied entirely upon the evidence on record.

7.0 CONSIDERATIONS AND DECISION

7.1 The starting place for consideration is jurisdiction. I am satisfied that this Court has jurisdiction under Section 4(3) of the Matrimonial Causes Act, as both parties are resident and domiciled in Zambia. And on the validity of the marriage, I am satisfied that a valid statutory marriage exists under the Marriage Act, evidenced by Exhibit P1.

7.2 On the issue for determination as to whether the marriage has irretrievably broken down under Section 9(1)(b) because of unreasonable behaviour by either or both parties; the Legal test being unreasonable behaviour, I adopt the principles in the case of *Ash v Ash (1872)*, *Mahande v Mahande* and *Brighton Soko v Petronella Soko and Rayden & Jackson*. In the said cited

case law, it has been stated that the Court must ask the question;

“Can this Petitioner, with his character, attributes, and conduct during the marriage, reasonably be expected to live with this Respondent.

And vice versa under a cross-petition?”

7.3 The Petitioner’s allegations were substantially weakened by his own admissions under cross-examination since there is no evidence of the Respondent’s alleged anger issues, no evidence of deliberate destruction of household items. The Petitioner conceded shared responsibility for house untidiness and he admitted his mother was involved in the marriage daily as a mother in law would do for her own child.

7.4 The Petitioner further said that he expected Respondent to carry major financial burdens during his unemployment and he confirmed Respondent cared well for the child. He conceded he expected the Respondent to contribute financially but not to control her finances.

The Petitioner offered no proof that the Respondent behaved violently or abusively. Accordingly, the Petitioner failed to establish unreasonable behaviour by the Respondent to the required standard.

7.5 In analyzing the Respondent's case, I find that she proved, on a balance of probabilities, that:

- i) The Petitioner allowed his mother to dominate marital decisions*
- ii) The Respondent suffered emotional abuse and belittling,*
- iii) Petitioner withheld conjugal rights*
- iv) Petitioner neglected financial responsibilities*
- v) Respondent was unsupported post-partum*
- vi) The Petitioner's conduct caused emotional distress*
- vii) Communication broke down entirely by his actions*

7.6 These facts were not discredited and indeed, many were confirmed by the Petitioner. Thus, the cumulative effect of this conduct renders cohabitation unreasonable. Section 9(4) prohibits granting a decree where cohabitation may resume. However, the parties last

lived together in October 2024. And both parties testified to a complete breakdown of trust, and neither expressed desire to reconcile. I am satisfied there is no reasonable likelihood of cohabitation being resumed.

7.7 Now on the totality of the evidence, I find that the marriage has broken down irretrievably. The Petitioner did not prove unreasonable behaviour against the Respondent. Whilst the Respondent did prove unreasonable behaviour against the Petitioner.

7.8 I accordingly grant the Respondent's Cross-Petition.

8.0 ORDERS OF THE COURT

8.1 Consequently,

- i) *A Decree Nisi for dissolution of marriage is hereby granted, to be made absolute in six (6) weeks unless it be otherwise stated by the parties herein.*
- ii) *And applying the Children's Code Act, 2022, and considering the child's best interests, I order that:*
 - a. *Custody of the minor child, Philip Tinofara Manda, shall vest in the Respondent.*

- b. *The Petitioner shall have reasonable and liberal access, including weekends and holidays.*
- c. *Both parties shall ensure that the child maintains a stable schooling environment.*
- iii) *On maintenance given the Petitioner's admissions regarding unemployment and the Respondent's heavier financial load, the Petitioner shall contribute monthly child maintenance;*
- a. *in an amount to be agreed or assessed upon application.*
- b. *Spousal maintenance for the Respondent is granted to the extent necessary, pending her continued employment, subject to further application.*
- iv. *Costs are awarded to the Respondent.*

9.0 Leave to appeal is granted.

Dated at Lusaka this 11th December 2025


M. M. Bah-Matandala
HIGH COURT JUDGE

