

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

**2025/HPF/D452**



**BETWEEN:**

**JOSEPHINE MULENGA**

**PETITIONER**

**AND**

**JAMES JEREMY CHANDA KASAMANDA**

**RESPONDENT**

*Before the Honourable Mrs. Justice M. M. Bah-Matandala  
Dated this 25<sup>th</sup> November, 2025.*

*For the Petitioner: Ms. C. Shimaluba, Messrs. National Legal Aid Clinic for Women  
(NLACW)*

*For the Respondent: Mr. S. Muchula, Messrs Kasama Chambers*

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## **JUDGEMENT**

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### **Legislation and other works referred to**

1. *The Matrimonial Causes Act No. 20 of 2007*
2. *Marriage Act, Chapter 50 of the Laws of Zambia*
3. *The High Court Act, Chapter 27 of the Laws of Zambia*
4. *Rayden & Jackson on Divorce and Family Matters, 16th Edition, Butterworths*
5. *Rayden's Law & Practice in Divorce & Family Matters, 11th Edition, Butterworths*

### **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 78/1998, unreported)*
5. *Tembo v. Tembo (1976) Z.R. 239*
6. *Mutombo v. Mutombo (2009) Z.R.*

## **1.0 INTRODUCTION**

1.1 This is Judgment for a Petition for dissolution of marriage filed by the Petitioner, Josephine Mulenga, on



10<sup>th</sup> July 2025, pursuant to **Sections 8 and 9(1)(b)** of the Matrimonial Causes Act No. 20 of 2007.

1.2 She alleges that the marriage has irrevocably broken-down owing to the **unreasonable behaviour** of the Respondent, James Jeremy Chanda Kasamanda.

1.3 The Petition invokes **Sections 8 and 9(1)(b)** as the only ground for divorce: **Section 8** permits a petition where irretrievable breakdown is alleged. **Section 9(1)(b)** requires proof that the respondent behaved in such a way that the petitioner cannot reasonably be expected to live with them.

1.4 Section 9(2) imposes a duty on this Court:

*“...to inquire, so far as it reasonably can,  
into the facts alleged by the petitioner and  
into any facts alleged by the respondent.”*

1.5 Accordingly, the Court must weigh all evidence holistically.

## **2.0 BACKGROUND**

2.1 The Petitioner and Respondent contracted a **statutory marriage** on **26<sup>th</sup> February 2024** at the Lusaka Civic Centre under the **Marriage Act**, Cap 50 of the Laws of

Zambia. The original marriage certificate was produced and admitted into evidence as **P1**.

2.2 The parties last cohabited as husband and wife at Mariandel Estate, Lilayi Road, in Lusaka Province.

2.3 The Petitioner is a Teacher, currently unemployed due to events surrounding the marriage, while the Respondent is a retired ZNS Military Officer and private investigator.

2.4 Both are domiciled and resident in Zambia, satisfying jurisdiction under **Section 4 of the Matrimonial Causes Act**.

2.5 There are no children of the family now living and none born during the marriage.

2.6 There are no previous proceedings relating to the marriage in Zambia or elsewhere.

### **3.0 THE PETITIONER'S CASE**

3.1 The Petitioner alleges that the marriage has broken down irretrievably due to the Respondent's cruelty, harassment, violence, dishonesty, malicious conduct, and emotional abuse. She relies on the following particulars of unreasonable behaviour:

- i. *Physical abuse has been alleged wherein the Respondent twisted her arm during an argument, causing pain and fear. She testified that this was one of several incidents where he acted violently.*
- ii. *False police accusations leading to imprisonment: The Respondent lodged a false complaint accusing her of assault and malicious damage. She spent four (4) nights in police cells and lost her employment as a result. This was not disputed by the Respondent.*
- iii. *False report for theft of a motor vehicle: The Respondent reported her for allegedly stealing his car, despite her prior authorised use of it. She was summoned and humiliated at John Howard Police Station.*
- iv. *Dishonesty about his health: She discovered ARVs in the Respondent's office on 17<sup>th</sup> January 2025, demonstrating*

*withholding of significant medical information. Trust faded irreparably.*

- v. Desertion: The Respondent left the matrimonial home twice: Between October and December 2024 and from 4<sup>th</sup> April 2025 for four months. He later took up residence with another woman in Chilanga. This aspect moving out of the matrimonial home was admitted in cross-examination.*
- vi. Removal of matrimonial property: Upon briefly returning to the house, the Respondent stripped it of the matrimonial bed, mattresses from all rooms, various household items, leaving Petitioner with: one stove, one sofa chair, two carpets, one fridge, one vegetable rack, and two old mattresses.*
- vii. Verbal insults and emotional torment: The Petitioner alleged that Respondent regularly insulted, demeaned, and emotionally abused her.*

3.2 The Petitioner therefore prayed that:

- i) *The marriage be dissolved;*
- ii) *A property settlement be ordered;*
- iii) *Each party bears their own costs.*

#### **4.0 RESPONDENT'S ANSWER AND CROSS-PETITION**

4.1 The Respondent filed a defence and cross-petition alleging wherein summary has alleged: improper contact with a former boyfriend, absence from the matrimonial home, and other allegations.

4.2 However, the Petitioner denied all allegations and explained she had cut off contact with the said person after marriage.

4.3 At trial, the Respondent failed to substantiate any allegation and conceded in cross-examination that: he left the matrimonial home first, the parties were hostile toward each other, cohabitation was impossible, and he consents to divorce.

#### **5.0 HEARING**

5.1 The matter was heard on 25<sup>th</sup> November 2025. The Petitioner adopted her Petition, Reply, Answer to Cross-Petition, and exhibited P1.

5.2 The Respondent adopted his Answer and Cross-Petition but crucially: admitted leaving the matrimonial home

first, admitted hostility, admitted impossibility of cohabitation and admitted removal of property.

5.3 Both parties closed their cases.

## **6.0 SUBMISSIONS**

6.1 Parties relied on the record and oral testimony. The Court now proceeds to determine the matter.

## **7.0 CONSIDERATIONS AND DECISION**

7.1 I have evaluated the pleadings, viva voce evidence, the demeanour of parties, and relevant law.

7.2 There is Marriage Certificate marked as P1 which proves compliance with statutory marriage formalities. And Jurisdiction is proper under **Section 4(3) of the Matrimonial Causes Act** because both parties are domiciled in Zambia. I am satisfied that the Petition is properly before this Court.

7.3 The applicable test is found in the cases of: Rayden & Jackson Mahande v Mahande Soko v Soko Ash v Ash. And recently reaffirmed in Brighton Soko v Sakala Soko, where the Supreme Court emphasised examining the conduct in relation to the particular petitioner.

7.4 An analysis of the Respondent's Conduct shows violence and and intimidation. The twisting of the Petitioner's

arm and other violent episodes are consistent with cruelty and unacceptable behaviour.

- 7.5 There are issues of false criminal allegations. The filing of false police reports amounts to extreme cruelty. The Petitioner was incarcerated, humiliated, and lost her job. Respondent did not contradict these facts.
- 7.6 Deceit regarding health. The Petitioner has alleged dishonesty behaviour about the HIV status of the Respondent. This act in a marriage is a serious breach of trust and amounts to unreasonable behaviour.
- 7.7 On the issue of desertion: The Petitioner stated in her evidence about the Respondent leaving the marital home twice and living with another woman, this is strong evidence of breakdown. And the Respondent admitted this.
- 7.8 Removal of property: The Petitioner has accused the Respondent of stripping the marital home of essential items which demonstrates a lack of regard and constitutes economic and emotional abuse.
- 7.9 There is allegation of emotional and verbal cruelty: The Petitioner has alleged that the consistent insults by the Respondent made cohabitation intolerable. Therefore,

following **Rayden & Jackson**, even if some acts are individually tolerable, the cumulative effect renders cohabitation unreasonable. The evidence here surpasses the threshold.

7.10 Further under **Section 9(4)**, the Court must consider whether resumption is likely. In the case at hand, the Respondent himself admitted: hostility, impossibility of living together, and consent to divorce. The standard in **Mutombo v Mutombo** is clearly met: there is no chance of reconciliation in this marriage as per the evidence on the record and the demeanor of the parties observed.

7.11 On the totality of evidence, I find that the Respondent has behaved unreasonably within the meaning of Section 9(1)(b) and that the marriage has broken down irretrievably.

## **8.0 ORDERS**

8.1 Accordingly, the following are the orders of the Court:

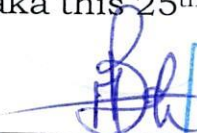
- i) A Decree Nisi is hereby granted. It shall become absolute after six (6) weeks unless cause is shown.*
- ii) Property Settlement: Given the Respondent's removal of household*

*property and the Petitioner's disadvantaged condition, all property issues are referred to the Deputy Registrar for determination pursuant to Section 54 of the Matrimonial Causes Act.*

- iii) There being no children of the family, no orders relating to custody or access are necessary.*
- iv) Each party shall bear their own costs.*

**9.0** Leave to appeal is granted.

Dated at Lusaka this 25<sup>th</sup> November, 2025.

  
M. M. Bah-Matandala

**HIGH COURT JUDGE 5 NOV 2025**

JUDGE BAH-MATANDALA  
P.O. BOX 50067, LUSAKA