

IN THE HIGH COURT FOR ZAMBIA
AT THE PRINCIPAL REGISTRY
FAMILY & CHILDREN'S COURT DIVISION
(Divorce Jurisdiction)

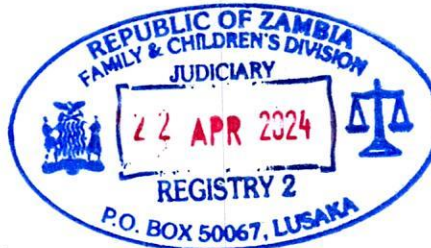
2023/HPF/D644

BETWEEN:

MILLIE MWALE CHANDA

AND

DALE MULENGA CHANDA



PETITIONER

RESPONDENT

*Before the Honourable Mrs. Justice M.M. Bah-Matandala
on this 22nd April 2024.*

APPEARANCES:

For the Petitioner: Ms. L. Mulasikwanda – National Legal Aid Clinic for Women
For the Respondent: In Person

J U D G M E N T

LEGISLATION REFERRED TO:

1. The Matrimonial Causes Act No. 20 Of 2007 of The Laws of Zambia
2. High Court (Amendment) Rules S.I Number 72 of 2018

1.0 INTRODUCTION

1.1 On 15th November, 2023 **Millie Mwale Chanda** the Petitioner herein filed a Divorce Petition Pursuant to **Section 8 and 9(1) (c) of the Matrimonial Causes Act No. 20 of 2007 of the Laws of Zambia** against the Respondent **Dale Mulenga Chanda** on the ground that the Respondent had deserted the Petitioner for

a continuous period of at least two years immediately preceding the presentation of the Petition.

- 1.2 That the Petition disclosed that the parties were lawfully married on 16th July 2014 at the Office of the Registrar, of Marriages at the Civic Centre in the city and province of Lusaka in the Republic of Zambia.
- 1.3 The Petitioner and the Respondent lived together as husband and wife at flat 4, block 12 Merzaf, Chilenje in the city and province of Lusaka.
- 1.4 The Petitioner and the Respondent last cohabited as husband and wife at plot No. 110a/191 Musonda Ngosa road, Villa Elizabetha
- 1.5 Both the Petitioner and the Respondent are domiciled in Zambia.
- 1.6 That the Petitioner is currently unemployed and resides at plot No. 110a/191, Musonda, Ngosa road, villa Elizabetha in Lusaka while the Respondent is a businessman and his residential address is unknown to the Petitioner.
- 1.7 That there are Two (2) children born of the Petitioner and the Respondent during the subsistence of the marriage namely:

- i *Malachi Emmanuel Chanda (male) born on 7th January 2003 aged 21 years and is in first year at the University of Zambia.*
- ii *Zion Florence Chanda (female) born on 24th February 2013 aged 11 years and is in grade 5 at Great North Road Academy.*

- 1.8 That there are no other children born to the Respondent prior to the marriage in so far as it is known to the Petitioner.
- 1.9 That there had been no previous proceedings in any Court in Zambia or elsewhere with reference to the said marriage or property of both or either parties.
- 1.10 There are no proceedings continuing in any Court outside Zambia which are in respect of the marriage which are capable of affecting its validity and substance.
- 1.11 That there are no arrangements that have been made between the Petitioner and the Respondent in relation to the custody and maintenance of the children of the family.
- 1.12 The said marriage has broken down irretrievably.
- 1.13 That the Respondent has deserted the Petitioner for a continuous period of at least two years since April 2021.

2.0 Particulars of the Desertion

- i in the year 2020 the Respondent left the matrimonial house to work at the mine in Mumbwa and indicated that he would return every two (2) weeks.*
- ii since April 2021 the Respondent left the matrimonial house and has not returned up to date. There is no hope of resuming cohabitation as husband and wife.*

3.0 The Petitioner therefore prays:

- i that the said marriage be dissolved*
- ii that the Petitioner be granted custody of the children of the family with reasonable access to the Respondent.*
- iii that there be an order for property settlement.*
- iv that there be an order for children maintenance*
- v that each party should bear their own costs*

4.0 Answer

- 4.1 The Respondent did not file an answer to the Petition and at the hearing opted not defend the Petition.

5.0 Hearing

- 5.1 At the hearing on 16th April 2024, the Respondent indicated that he was not defending the Petition and he consented to the dissolution of marriage.
- 5.2 The Petitioner has stated that the Respondent deserted her in April, 2021 and since then, he had not been maintaining the child of the family and the Petitioner.
- 5.3 The Petitioner stated that the Respondent had never bothered to visit the matrimonial home or check on the children of the family since the time he deserted the Petitioner in April 2021 up to date. In January 2023 the Petitioner tried to have a meeting with her mother, the father to the Respondent and his friend but the Respondent did not show any remorse and he could not give any reasons why he left the Petitioner.
- 5.4 The Petitioner implored the Court to dissolve the marriage for the reason that the Respondent has deserted the Petitioner since April 2021. The Petitioner also prayed that the marriage be dissolved and there be an Order for the

Child Custody of the children of the family and that each party bears their own costs.

- 5.5 Upon considering the evidence adduced by the Petitioner herein, and the Respondent having deserted the marriage, this Court is satisfied that the parties have lived apart for a continuous period of at least two years since April 2021 immediately preceding the filing of this Petition.
- 5.6 In light of the foregoing, it is hereby adjudged that the marriage between the parties herein has broken down irretrievably. The Petitioner is granted a *decree nisi* which shall become *absolute* after the prescribed statutory period of six weeks pursuant to *Order XXXI Rule 4(4)(a) of the High Court (Amendment) Rules S. I number 72 of 2018*.
- 5.7 I grant Custody of the children of the family to the Petitioner with reasonable access to the Respondent.
- 5.8 I refer property settlement and child maintenance to the Honourable Deputy Registrar.
- 5.9 Each party shall bear their own costs.

6.0 I order accordingly.

Dated at Lusaka, this 22nd April, 2024.



.....
M.M. Bah-Matandala
HIGH COURT JUDGE

