

**CIVIL COURTS
(FAMILY SECTION)**

MADAM JUSTICE

JACQUELINE PADOVANI GRIMA LL.D., LL.M. (IMLI)

Hearing of Tuesday 6th of October 2020

Application no. : 118/2020 JPG

Case no. : 20

SM

Vs

KM

The Court:

Having seen the sworn application filed on the 6th May 2020 of **SM**, at page 2, wherein it stated:

Whereas the parties contracted marriage in Malta on the 24th of August 2006 and have one daughter G born on X, and who presently is Y years of age.

Whereas the parties are legally separated in virtue of a separation deed published in the records of Dr Henry Vassallo, dated the 10th of April 2018 (doc A).

Whereas there exists no reasonable possibility for the parties to reconcile since besides being legally separated for two years they have over all been leading a separate and independent life for the past six years.

Whereas maintenance payable in the interests of the minor daughter is regulated in terms of the said separation deed (vide Doc A page 5 Art 2)

Whereas the abovementioned facts satisfy all conditions required for the obtainment of a divorce in terms of Article 66 B of Chapter 16 of the Laws of Malta.

Consequently, the applicant humbly requests this Honorable Court to :

- 1. Declare the dissolution of the marriage between the parties; and*
- 2. Order the Registrar of Courts to duly notify the Director of the Public Registry, within a term established for this purpose, of the dissolution of this marriage and for this to be registered officially in the Public Registry.*

Having seen that the application and documents, the decree and notice of hearing have been duly notified in according to law;

Having seen the sworn reply of **KM** dated 22nd June 2020 at page 27:

That the defendant agrees that they were married in Malta on the 24th of August 2006 and from this marriage they had one daughter to whom they gave the name of G born on the 12th of November 2003.

There is an agreement that the parties are separated in terms of the agreement entered into by the Notary Dr Henri Vassallo on the 10th of April 2018;

There is absolutely no possibility that the parties will reconcile and therefore there is no objection to the divorce as long as the plaintiff pays all the expenses incurred by this case.

Having seen all the evidence presented by affidavit;

Having seen the exhibited documents and all the case acts;

Having seen the Articles 66A, 66B u 66C of Chapter 16 of laws of Malta;

Considers;

SM testified by affidavit (page 17) that he married **K** on the 24th of August 2006 and from that marriage one daughter was born, said daughter is now sixteen years old. They are legally

separated in virtue of a contract of personal separation dated 10th April 2018 published in the records of Notary Dr Henri Vassallo.

He further testified that the parties have not lived as husband and wife for 6 years. They both lead separate and independent lives in that six years period.

Finally, he testified that his daughter lives with him and K pays €150 in maintenance for their daughter. He said that there is no prospect of the parties getting back together again as he has now moved on with his life.

KM testified by means of affidavit (page 28) and confirmed the contents of the affidavit of the plaintiff **SM**. She further testified that her husband is a very difficult and controlling person.

Deliberates;

66A. (1) Each of the spouses shall have the right to demand divorce or dissolution of the marriage as provided in this Sub-Title. It shall not be required that, prior to the demand of divorce, the spouses shall be separated from each other by means of a contract or of a judgement. [...]

66B. Without prejudice to the following provisions of this article, divorce shall not be granted except upon a demand made jointly by the two spouses or by one of them against the other spouse, and unless the Court is satisfied that:

(a) on the date of commencement of the divorce proceedings, the spouses shall have lived apart for a period of, or periods that amount to, at least four years out of the immediately preceding five years, or at least four years have lapsed from the date of legal separation; and

(b) there is no reasonable prospect of reconciliation between the spouses; and

(c) the spouses and all of their children are receiving adequate maintenance, where this is due, according to their particular circumstances, as provided in article 57:

Provided that the spouses may, at any time, renounce their right to maintenance:[...]

The Court has seen that the parties were married on the 24th August 2006 (vide Doc A, page 19) and from their relationship they had one child, who is still a minor.

It results also that the marriage broke down and the parties obtained a personal separation by means of a public deed in the acts of Notary Doctor Henri Vassallo dated the 10th of April two thousand and eighteen (2018) (vide page 3). From the testimony of the parties, it further results that the parties have been separated *de facto* for six years, and therefore in excess of the four years required by law.

The record shows that there are no maintenance arrears. Furthermore, the Court finds that there is no hope of a reconciliation.

For these reasons, the Court pronounces the dissolution of the marriage between the parties by divorce and orders the Court Registrar to advise the Director of the Public Registry of the dissolution of the marriage between the parties so that this may registered in the Public Registry.

Senza tassa.

Read.

Mdm. Justice Jacqueline Padovani Grima LL.D. LL.M. (IMLI)

**Lorraine Dalli
Deputy Registrar**