

**CIVIL COURTS  
(FAMILY SECTION)**

**MADAM JUSTICE  
JACQUELINE PADOVANI GRIMA LL.D., LL.M. (IMLI)**

**Hearing of 3<sup>rd</sup> March 2022**

**Application no. : 393/2021**

**Case no. : 20**

**MF**

**Vs**

**JF**

**The Court:**

Having seen the sworn Application filed by MF , dated 3<sup>rd</sup> September 2021, at page 1 (translated copy at page 2), wherein it was held:

- 1. That the parties contracted marriage in Malta on the 26 August 2014 (DOK A) and of the marriage they had one child, E, who was born on X;*
- 2. That they separated by means of a contract of separation published on the 17 April 2018 in the acts of notary Anne Fenech Adami (Dok B);*
- 3. That the parties have been living apart since April of the year 2016 as indicated in the preamble (D) to the said contract of separation;*
- 4. That maintenance due by plaintiff for the needs of the minor child have been paid and there are no arrears;*
- 5. That there is no reasonable prospect of reconciliation between the parties;*

6. *That therefore the conditions envisaged in section 66B of Chapter 16 of the Laws of Malta are satisfied and in light of the fact that the parties are separated by means of a contract of separation no mediation required;*
7. *That applicant is attaching hereto her affidavit, in Maltese and in English, (Dok C1-C2), as well as a translation of this act in the English Language since she does not speak in the Maltese Language (DOK D).*

*For these reasons applicant requests with respect, on the basis of section 66B of Chapter 16 of the Laws of Malta, that this Honourable Court deem it fit to*

- i. *Save any hearing necessary on the basis of section 66V of Chapter 16 of the laws of Malta in order to ascertain the existence of the satisfaction of the conditions outlined in section 66B, pronounced divorce between the parties as envisaged in section 66C.*
- ii. *Authorise applicant to revert to her maiden surname R.*

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

Having seen that Defendant, having been duly served, has failed to file a sworn reply and has failed to appear in Court, wherefore Defendant is contumacious at Law. (vide page 19);

Having seen that Defendant was given the faculty to file written submissions in terms of Art 158 (10) of Chapter 12 of the Laws of Malta. (vide page 19)

Having seen that this notwithstanding, the Defendant failed to file any written submissions.

Having examined the testimony given on oath;

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:**

**MF** testified (vide affidavit at page 3) that the parties were married on 26 of August 2009, and from this marriage a son was born. She stated that this marriage broke down and the parties separated by virtue of a contract of personal separation dated 17<sup>th</sup> April 2018. She declared that there is no prospect for reconciliation with her husband. Moreover, she testified that there were no maintenance arrears.

**Deliberates:**

According to Law, it is confirmed in Articles 66A and 66B of Chapter 16 of laws of Malta:

*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.*

*(omisis)*

*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) upon a demand made jointly by the two spouses, 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 6 months out of the preceding year: Provided that when the demand is made by one of the spouses against the other spouse, 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 one year out of the preceding two years; or*
- (b) on the date of commencement of the divorce proceedings, the spouses are separated by means of a contract or court judgment; and*
- (c) there is no reasonable prospect of reconciliation between the spouses; and*

*(d) 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: Provided further that for purposes of this paragraph, maintenance ordered by the court by a judgement of separation or agreed to between the spouses in a contract of separation, shall be deemed to be adequate maintenance:*

*Provided further that a divorce pronounced between spouses who were separated by a contract or by a judgement shall not bring about any change in what was ordered or agreed to between them, except for the effects of divorce resulting from the law.*

**Considers:**

The Court has seen that the parties were married on the 26th of August 2009, (vide Doc A, marriage certificate number 1468/2009 at page 4) and a child was born from this marriage who is still minor;

The record shows that the marriage broke down and the parties obtained a personal separation by virtue of a public deed in the acts of Notary Dr. Anne Fenech Adami dated the 17<sup>th</sup> April 2018 (vide Dok B, page 5 et seqq). Therefore, it is established that the parties have been separated in excess of the timeframe required by law.

The record shows that that there are no pending maintenance arrears.

Furthermore, the Court finds that there is no reasonable prospect of a reconciliation between the parties.

Furthermore, the Court deems that there are no pleas that ought to be raised ex officio in view of the contumacious position of Defendant at law.

**For these reasons, the Court pronounces the dissolution of the marriage between the parties**

**by divorce, which marriage bears the Certificate Number 33 of 3<sup>rd</sup> July 2014 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 be registered in the Public Registry. Furthermore, the Court authorises the Plaintiff to revert to her maiden surname 'R' and orders the Director of Public Registry to take the requisite action.**

**Senza tassa.**

**Read.**

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

**Lorraine Dalli  
Deputy Registrar**