

**CIVIL COURTS  
(FAMILY SECTION)**

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

**Hearing of 7th March 2023**

**Application no. : 404/2022JPG**

**Case no. : 9**

**DM**

**Vs**

**LM**

**The Court:**

Having seen the Application filed by DM, dated 27th July 2022, at page 1 (translation at page 2), wherein it was held:

- 1) *That parties contracted marriage in Malta on the 20 October 2011 (DOK A) and of this marriage they had one child, Dy, who was born on the X;*
- 2) *That they separated by means of a contract of separation published on the 22 February 2021 in the acts of notary Francesca Cachia Zammit (DOK B);*
- 3) *That the parties have been living apart since January of the year 2020 as indicted in the preamble to the said contract of separation and there has been no reunification between them since;*
- 4) *That maintenance due by defendant 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 is required;*
- 7) *That applicant is attaching hereto his affidavit, in Maltese and in English, (DOK C1-C2), as well as a translation of this act in the English language since he 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, save any hearing that necessary on the basis of section 66C 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.*

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

Having seen that Defendant appeared unassisted and after having explained her legal rights she declared that she did not require legal assistance and she was not objecting to the divorce (Vide page 20)

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:**

**Plaintiff** testified (vide affidavit at page 11) that the parties were married on the 20<sup>th</sup> October 2011, had one child who is still minor. He stated that this marriage broke down and the parties separated by virtue of a contract dated 22<sup>nd</sup> February 2021 in the acts of Notary Dr Francesca Cachia Zammit. He declared that there is no prospect for reconciliation with his wife. Moreover, he stated that there are no maintenance arrears due.

**Defendant** testified (vide page 21 et seq) and corroborated with all evidence given by her

husband.

**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 20<sup>th</sup> October 2011, (vide page 3) which marriage bears the number 165/2011. and one 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 means of a public deed in the acts of Notary Dr Francesca Cachia Zammit(vide Dok B, page 4 et seqq) dated 22<sup>nd</sup> February 2021. 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

**For these reasons, the Court pronounces the dissolution of the marriage between the parties by divorce, which marriage bears the certificate number 165/2011 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.**

**Senza Tassa.**

**Read.**

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

**Christabelle Cassar**

**Deputy Registrar**