



CIVIL COURT – FAMILY SECTION

Madam Justice

**Onor. Abigail Lofaro LL.D., Dip. Stud. Rel. Mag. Jur.
(Eur. Law)**

Today, 30th March 2023

Application Number : 548/2022 AL

Dr. Natalia Camilleri (K.I. Nru 519896 M) bħala mandatarja
speċjali tal-assenti A B C

VS

D E F

(Irish Marriage certificate number - 1586382)

The Court,

Having seen the application filed by applicant by virtue of which applicant premised:

1. That the applicants have contracted their marriage on the third (3rd) of January of the year two thousand and nine (2009) in the Catholic Church of St. Mochta's located in Dublin, Ireland, copy of the marriage certificate annexed and marked ad Doc. GC1
2. That the parties never had children during their marriage.
3. That the parties have been legally separated as from the end of the year two thousand and twenty (2020) by virtue of a decree of judicial separation authorised by the High Court of

Ireland signed on the twenty-sixth of November of the year two thousand and twenty (2020), a copy of the same order annexed and marked as Doc. GC2.

4. That there is no reasonable prospect of reconciliation between the parties due to the fact that they have been separated for more than a year out of these last two years and live a totally separate life from one another. In fact, the applicant resides in France whilst the respondent resides in Malta.
5. That the parties by virtue of the above-mentioned separation order (vide Doc. GC2) reciprocally renounced to their right for receiving maintenance from one another and this as indicated in paragraph twelve (12).
6. That the respondent has been habitually resident in Malta for these last twelve (12) years and therefore this Honourable Court has jurisdiction to hear and determine these proceedings.
7. That these above-mentioned facts satisfy the conditions required for obtaining a divorce according to Article 66B of the Civil Code, Chapter 16 of the Laws of Malta as amended by virtue of Act XXV of 2021.

Therefore and in light of the reasons above mentioned, the applicant humbly requests this Honourable Court to: -

- (1) Pronounce the dissolution of the marriage between the parties which was celebrated on the third (3rd) of January of the year two thousand and nine (2009) in the Catholic Church of St. Mochta's located in Dublin, Ireland and consequently pronounces the divorce between the parties;
- (2) Order that the judgement given by the Honourable Court be notified to the Director of Public Registry or the competent Authority according to the circumstances of this case in order for it to be registered and effects of the Law.

With expenses against defendant from now summoned with reference to the oath of his adversary.

Having seen the reply whereby respondent makes reference to the Decree of this Court dated 25th January 2023 granting the respondent an extension of one month from the date of the Decree to file her Reply to the Divorce;

That by virtue of this Reply the Respondent submits that is correct to state that parties got married with the Rite of the Catholic Church of St. Mochta's, Porterstone Dublin, Ireland as per marriage certificate attached to applicant's divorce application and marked as Doc. GC1;

That no children were born from this marriage;

That is correct to state the parties compromised their personal separation by virtue of Decree of Judicial Separation of the Hight Court in Ireland dated 26th November 2020 and a copy of which is attached to the applicant's Divorce Application and marked as Doc. GC2 and furthermore the Respondent is also exhibiting the Record of the Court bearing Number 2018/68 M dated Thursday 26th November 2020 Before Mr Justice Jordan, hereby marked and attached as Doc. 'DM'.

That on the basis of the said Decree of Judicial Separation all matters arising out of the parties marriage were settled in full on the basis of the terms set out in the said Decree of Judicial Separation. By the date of the Judicial Decree of separation the parties have been living apart for more than one year, in actual fact in March 2018 the Applicant left Malta and took up residence abroad;

That, furthermore, it is pertinent to note that as per their Decree of Judicial Separation, the parties renounced to any form of spousal maintenance from each other as per paragraph twelve (12) of their Decree of personal separation;

That the Respondent declared that there is absolutely no prospect of reconciliation between the parties because they have had totally separate lives since March 2018, and as stated above the Applicant no longer lives in Malta whereas the Respondent lives in Malta;

That on the basis of the above the Respondent does not object to the Divorce however the Respondent highlights that their Decree of Judicial Separation (**and therefore Doc GC2**) contains an **order** in the final paragraph of the same Decree of Judicial Separation (paragraph thirteen (13)) which order stipulates that the terms of their Judicial Separation are to be incorporated into a Decree of Divorce. The relevant part of this clause reads as follows:

“It is agreed between the Applicant and the Respondent herein that the within terms constitute a full and final settlement at all matters at issue between them. The Parties also agree and acknowledge that the above terms represent proper provision in the context of divorce proceedings which it is intended will be issued. The within terms shall be incorporated into a decree of divorce...” that and therefore on the basis of this order and

since the Applicant has filed Divorce Proceedings in Malta – to which the Respondent does not object, Respondent humbly requests that the order contained in their Judicial Separation is brought into effect and that the said terms of their Judicial Separation be either transposed and incorporated into the Divorce Judgement to be given by this Court **or alternatively** that this Court makes express reference in its Judgement to the said Decree of Judicial Separation dated 26th November 2020 and its relative Record and therefore **Doc. GC2 and Doc. DM** respectively and declared them to form an integral part of the Divorce Judgement.

And this further to any other provision deemed necessary by this Court.

Having seen the documents filed with the application;

Having seen its decree of the 3rd November 2022;

Having seen respondent’s reply;

Having seen respondent’s sworn affidavit and the documents which she presented;

Having seen Section 66 B of the Civil Code, Chapter 16 of the Laws of Malta;

Having seen the minutes of the Court sitting dated 8th March 2023;

Considers;

The Court considered that applicant has satisfied all the legal requirements so that a divorce be issued since he proved that parties have been legally separated since the 26th November 2022 by virtue of a decree of judicial separation authorised by the High Court of Ireland;

Applicant also proved that there is no reasonable prospect that they can reconcile and has also proved that no maintenance is due since both parties reciprocally renounced to their right for receiving maintenance from each another;

The Court also saw that both parties agreed before the Irish High Court – Family Law that the decree which the High Court issued on the 26th November 2020 and all its terms and conditions constitute a full and final settlement at all matters at issue between them. They also agreed and acknowledged that the above terms represent proper provision in the context of divorce proceedings which it is intended will be issued. The within terms, the parties agreed should be incorporated into a decree of divorce together with mutual section 18(10);

The Court is therefore referring to said decree dated 26th November 2020 and declares that this decree forms part and parcel of its judgement together with its relative record and therefore documents GC2 and document DM respectively; Furthermore, the Court pronounces the dissolution of marriage between the parties which was celebrated on the 3rd January 2009 in Dublin, Ireland and pronounces divorce between the parties and orders the Court Registrar to inform the Director of the Public Registry within ten days from today with the dissolution of the parties' marriage so that it will be registered in the Public Registry;

The Court orders that each party is to bear its own costs.

The Court reduces the term for appeal to four days.