



**COURT OF MAGISTRATES (GOZO)
SUPERIOR JURISDICTION
FAMILY SECTION**

**MAGISTRATE DR BRIGITTE SULTANA LL.D., LL.M.
(CARDIFF), ADV. TRIB. ECCL. MELIT.**

Today, Friday, 30th of June 2023

Sworn application number: 35/2022 BS

HT

-vs-

**Lawyer Dr Kevin Mompalao nominated by virtue of
a decree of the 22nd August, 2022 in order to represent
the absentee JPV**

The Court;

Having seen the Sworn Application filed by HT who premised:

1. THAT the parties had a relationship between themselves out of which relationship five (5) children have been born, that is, APV on the twenty-sixth (26th) September of the year two thousand and nine (2009), EPV who was born on the sixth (6th) September of the year two thousand and twelve (2012), TPV who was born on the sixteenth (16th) November of the year two thousand and fourteen (2014), MPV who was born on the thirteenth (13th) July of the year two thousand and sixteen (2016) and JPV who was born on the third

(3rd) November of the year two thousand and eighteen (2018) and this as shown on the Birth Certificates herewith attached and marked as Dok. A, Dok. B, Dok. C, Dok. D, and Dok. E respectively;

2. THAT the relationship between the parties [sic] has ended and in fact the defendant JPV abandoned totally the applicant and his children and therefore the applicant ended up rearing her children alone;
3. THAT the relationship between the parties in regards to the children has not yet been regulated and therefore the applicant is facing difficulties particularly with regards to the care and custody of the children;
4. THAT by virtue of a decree of the 28th September, 2022, the Court entrusted the care and custody pendente lite of the children Pace Vincneti in the hands of the applicant;
5. THAT the applicant has been authorised to proceed with this lawsuit by virtue of a decree of the 6th October, 2022;
6. THAT the applicant declares that she knows of the facts of the case personally;
7. THAT therefore this lawsuit should be presented.

Accordingly she requested this Court to:

1. Orders that the care and custody of the minor children APV, EPV, TPV, MPV and JPV should be held exclusively [sic] in the hands of the plaintiff;
2. Establishes maintenance which should be paid in monthly rates by the defendant to the minor children and order the same defendant to pay such maintenance to the plaintiff;

With all costs against the defendant who are being subpoenaed so that reference to his oath can be administered.

Having seen the sworn reply of Advocate Dr Kevin Mompalao¹, who by virtue of a decree dated the 22nd of August 2022 was appointed deputy curator to represent the absentee JPV, wherein said Dr Mompalao declared that:

1. Whereas the applicant is absolutely not privy of the facts of this case and therefore while submitting himself to evidence that will be produced, he reserves the right to reply further in the event he makes contact with the absentee;
2. That any case he submits that every decision must, as is always the case, be taken in the best interest of the minor;
3. That this reply is being confirmed on oath by the applicant deputy curator.

Noting the sworn application and all the documents annexed with it.

Noting the sworn reply filed by Dr Kevin Mompalao as the curator for the defendant.

Noting that during the sitting of the 2nd December, 2022 legal counsel for the plaintiff requested that the proceedings be conducted in the English language. The Court acceded to this request.²

Noting the note filed by the curator on the 8th March, 2023 wherein Dr. Mompalao declared that he had no evidence to submit.³

Noting that on the 26th April, 2023 the case was adjourned for judgement for today.⁴

Considers.

¹ The sworn reply of Dr Mompalao was filed in the acts in Maltese, and as translated reads as reproduced.

² A fol 51 of the records of the case.

³ A fol 92 of the records of the case

⁴ A fol 96 of the records of the case

By virtue of the present case the plaintiff is seeking to obtain full care and custody of her five children. She is also requesting the court to set the amount of maintenance due by defendant – her estranged partner.

The Court notes that the defendant failed to appear in court and hence the Court had to appoint a curator to appear in his stead and represent him.

Throughout the proceedings the plaintiff produced several witnesses who attested to her behaviour as a mother and as an employee. The plaintiff also filed a sworn statement wherein she gave a detailed account of how her relationship with the defendant evolved, the environment at home and the difficulties she has to face in bring up her children alone after the defendant left home for good.

The Court also notes that the defendant failed to provide any evidence to counter the requests advanced by the plaintiff.

Having perused and studies all the documents in the records of the present case, this Court deems that the plaintiff has successfully proven her case and hence her requests shall be upheld.

Decide.

The Court, therefore after giving due consideration to the requests put forth by the plaintiff and on the basis of the afore mentioned considerations is hereby deciding the present case as follows :

- i) Upholds the first request and orders that henceforth the care and custody of the minor children APV, EPV, TPV, MPV and JPV should vest exculsively and solely in the hands of the plaintiff;
- ii) Upholds the second request and orders the defendant to pay the plaintiff the sum of €600 as maintenance for the minor children which sum includes expenses related to education and health. This sum is to be paid one month in advance with the first payment to be

effected on the 20th July, 2023. The defendant is also being ordered to deposit the afore mentioned amount directly into a bank account identified by the plaintiff and to that effect the plaintiff is to communicate the bank account number to the defendant by the 15th July, 2023.

Costs to be borne solely and exclusively by the defendant.

(ft.) Dr. Brigitte Sultana
Magistrate

(ft.) Daniel Sacco
Deputy Registrar

True Copy

For the Registrar