



**FIL-QORTI CIVILI
(SEZZJONI TAL-FAMILJA)**

L-ONOR. IMHALLEF ANTONIO G. VELLA

Seduta ta' nhar it-Tlieta 5 ta' Dicembru 2023

Rikors nru : 241/2022 AGV

NMT

Vs

Dr Fransina Abela u PL Melissa Anastasi

Kuraturi deputati għall assenti E K

Bìdigriet tat-8 taì Frar 2023

Il-Qorti,

Rat ir- Rikors guraumentat tal-Attrici N M T li ppremettiet is-segwentì :-

1. Illi minn relazzjoni li hija kellha mal-konvenut KE , twieldu zewg ulied, En u C ahwa K taì hdax u disa snin rispettivament (Dok A u Dok B).
2. Illi din ir-relazzjoni spiccat fi April 2022.
3. Illi sussegwentament l-intimat K E qataì kull kuntatt mar-rikorrenti u uliedu hawn indikat.
4. Illi l-ulied minuri tal-partijiet baqghu dejjem jirrisjedu mar-rikorrenti wahidha.
5. Illi fidan z-zmien kienet l-attrici wahidha li hadet hsieb tal-htigijiet tal-minuri tal-partijiet, inkluz htigijiet finanzjarji.

Ghaldaqstant l-esponenti titlob bir-rispett illi din l-Onorabbli Qorti prevja d-dikjarazzjoni neccessarji u moghtija l-provvediment opportuni.

1. Takkorda l-kura u l-kustodja tal-minuri Ey u C ahwa K esklussivament fidejn l-attrici.
2. Tiffissa retta alimentazzjoni adegwata ghal bintha minuri u tordna lill-konvenut ihallass tali retta alimentari, flimkien mal-ispejjez medici u edukazzjoni tal-minuri.

Bl-ispejjez kontra l-konvenut li minn issa huwa ngunt ghas-subizzjoni.

Rat ir- Risposta tal-Kuraturi Deputati Av. Fransina Abela u l-Prokuratur Legali Melissa Anastasi bhala kuraturi Deputati mahtura, permezz ta' digriet datat 8 ta' Frar 2023, sabiex jirrapprezentaw lill-assenti konvenut EK li eccepew:-

1. Illi hija l-attrici li ghandha l-piz tal-prova u cioe' illi trid ikun l-attrici li permezz tal-provi mressqa minnha tikkonvinci lil din l-Onorabli Qorti illi l-allegazzjonijiet li l-istess attrici qed taghmel fil-konfront tal-intimat huma fondati u dan partikolarment fil-prova li l-intimat EK huwa assenti minn Malta.
2. Illi subordinatament l-esponenti ghandhom ikunu notifikati bl-ahhar indirizz elettroniku jew numru telefoniku jew tal-mowbajl tal-patrocinat taghhom u dan sabiex issir tentattiv ta' komunika mieghu u jkun accertat jew ghandux xi jzid ghat-talbiet attrici.
3. Illi l-esponenti fidan l-istadju jiddikjara li m'huwiex edotti mill-fatti u ghaldaqstant jirriservaw id-dritt li jressqu eccezzjonijiet ulterjuri jekk ikun il-kas.

Salv eccezzjonijiet ulterjuri.

By a court decree dated 16 June 2023, the Court ordered that the proceedings take place in the English language.

FACTS:

Plaintiff had come to Malta and she started studying B.Sc nursing at the University of Malta and she graduated in 2010.

In 2009, she met Defendant who used to work as a cleaner at Mater Dei Hospital and the following year they started living together.

They had two sons born out of this relationship, the first was born on the 21st August, 2011 and the second one was born on the 19th December, 2012.

She explains that they used to argue very often because mainly she earned more than Defendant and she used to pay all the bills and the last financial help he gave her was in August, 2021.

In April, 2022, the Defendant just left the matrimonial home without even informing her and later she had found out that he had left Malta. She admits that since then he has never contacted her or the children and she has been taking care of the children ever since.

CONSIDERATIONS:

Plaintiff's evidence proves that her relationship with Defendant was very short-lived, within two years, they dated, they moved into together, had children and Defendant abandoned Plaintiff.

The evidence produced by Plaintiff, not rebutted in any way, since Defendant failed to produce any evidence through his curators, confirms that it was always Plaintiff who provided for the family and paid all the bills. Infact, they use to argue mainly because of the difference in their wages.

Since what is of paramount importance for the Courts, is that it takes a decision regarding the care and custody of the children that is in their best interests.

Since 2022, the parties children were abandoned by their father and ever since he has not been in contact with them. Moreover, according to the information that Plaintiff managed to acquire, Defendant left the Maltese Islands.

Being unaware of Defendant's whereabouts makes it very difficult for the Court to grant care and custody to him. In addition, the minor children have been living here in Malta and attend school regularly. The Court cannot upset that stability and once Defendant did not take any initiative to involve himself in the case, this indifference has to be considered to Plaintiff's advantage.

Having considered the above, the court believes that it would be in the best interests of the children to be granted in the full care and custody of their mother.

Maintenance

Plaintiff is also requesting payment of maintenance for the children. No evidence has been produced as to Defendant's income, but nonetheless it is a difficult task considering that Plaintiff is unaware of his whereabouts.

Once Defendant is a father, this carries with it a number of obligations, foremost amongst which is maintaining the children. In the lack of evidence to support his income, the Court orders that he pays the minimum amount generally applied by this Court precisely the amount of Å200 for each child until they reach the age of eighteen years (18), or until they each reach the age of twenty-three (23) and are still full time students with no full-time employment. Defendant is also to pay half the expenses incurred in the children's health and educational needs.

DECIDE:

For the abovementioned reasons, the Court upholds Plaintiff's request as aforementioned.

Orders the care and custody of the children to be vested in the mother, the Plaintiff.

Establishes the amount of Å200 per child as maintenance as aforesaid.

All costs are to be borne temporarily by Plaintiff, but shall become recoverable in full from Defendant, once his whereabouts are determined.

Hon. Mr. Justice Dr. Anthony J. Vella

Registratur