

**CIVIL COURTS
(FAMILY SECTION)**

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

Hearing of the 29th of August 2024

Application no. : 150/2024 JPG

Case no. : 28

**Dr Malcolm Mifsud (ID
405168M) for and on behalf of
DRW residing in the UK
Vs
DBW**

The Court:

Having seen the application filed by Plaintiff dated 21st of March 2024, at page 1 wherein it was held:

Whereas the parties contracted in B'Kara on the thirteenth of October two thousand and six (13/10/2006), as indicated in the attached extract of the marriage certificate attached and marked Doc A;

That, from this marriage two children were born, namely DYW born on the X and DSW born on the Y, as indicated in the attached birth certificate attached and marked Doc B;

That, the marriage between the parties broke down irretrievably and there was no prospect of reconciliation between the parties, therefore mediation proceedings

were initiated.

That these mediation procedures led to a separation contract signed on February 13 of the year 2023 which contract was authorized by the Honorable Civil Court (Family Section) in the Acts of the Mediation Letter 3723/2022. This separation contract was registered in the Acts of the Notary Dr Astrid Parnis; (Doc C).

There is no obligation for the payment of maintenance towards each other, and neither are there any arrears due;

Whereas these facts as mentioned, satisfy the conditions required for the marriage to be terminated in accordance with Article 66B of the Civil Code, Chapter 16 of the Laws of Malta;

For these reasons, the applicant is humbly requesting this Honorable Court to:

- 1. Pronounce divorce, as well as dissolve the marriage between the parties;*
- 2. Order the Registrar of Court so that in a time-frame allotted for the same, notify the Director of the Public Registry with the dissolution of the marriage between the parties and for this to be registered in the Public Registry.*

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

Having heard the parties 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:

Plaintiff testified (vide affidavit fol 6 et seqq.) that the parties were married 13th of October 2013, and from this marriage two children were born. He stated that this marriage broke down and the parties separated by virtue of a contract of personal separation dated 9th February 2023 in the acts

of Notary Dr Roberta Bisazza. The parties have since been living completely separate lives. He declared that there is no prospect for reconciliation with his wife. Moreover, he stated that there are no pending maintenance arrears due between them.

DBW testified (vide affidavit fol 32 et seqq) and corroborated 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 13th of October 2006 which Marriage Certificate bears the number 2084/2006 (vide page 7). Two children were born from this marriage;

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 Astrid Parnis on the 13 of February 2023 (vide Fol 10 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.

For these reasons, the Court pronounces the dissolution of the marriage between the parties by divorce, which marriage bears the certificate number 2084/2006 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