

**CIVIL COURTS  
(FAMILY SECTION)**

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

**Hearing of 29th August 2024**

**Application no. : 235/2024JPG**

**Case no. : 24**

**MM  
Vs  
DM**

**The Court:**

Having seen the Application filed by Plaintiff, dated 8th May 2024, at page 1 (translation at page 5), wherein it was held:

- 1. "That the contending parties contracted their marriage at the Marriage Registry in Valletta, on 15 March 2003 (Marriage Act No 228/2013);*
- 2. That from the marriage de quo a child by the name of MSM was born, on X and that for all purposes and effects of the law the child is of legal age;*
- 3. That the contending parties amicable separated from each other on the twenty-eight (28) day of November of the year two thousand and nineteen (2019) in the Acts of Notary Doctor Miriam Musumeci Macelli. Copy of the contract (Entrolment No 398/2020) of their relative personal separation is here being attached together with this application;*

4. *That nowadays the term provided for in the law has passed since the contending parties separated and the same parties mutually agree that there is no reasonable prospect for reconciliation between them and in fact they live completely separate lives from each other;*
5. *That the parties to this marriage had mutually renounced the right to request and obtain maintenance against each other;*
6. *That there is no issue between them regarding child support;*
7. *That in view of the premises, all the criteria required by law for the dissolution of marriage and for the divorce of the parties are evidently met;*

*Accordingly, the applicant MM humbly and respectfully requests this Honorable Court to:*

- a) *Declare that their marriage is dissolved and that the parties are divorced for all purposes and effects of the law;*
- b) *Order the Registrar of the Court to notify the Director of the Public Registry of the divorce of the parties and to register it in accordance with the law in the Public Registry within a time allowed by this Honorable Court.*

Having seen that the application, documents attached and this Court's decree have been duly notified according to law;

Having seen the reply of Defendant (Vide Fol 23) dated 8th July 2024, wherein he stated:

1. *That the respondent confirms that the parties had celebrated marriage on the 15th March 2003, at the Marriage Registry in Valletta, and together, they had a son, named MSM born on the X;*
2. *That the parties have been legally separated as of the 28th November 2019 by virtue of a separation agreement in the acts of Notary Dr. Miriam Musumeci Macelli.*

3. *That the parties live a completely separate life from each other, and there is no reasonable prospect of reconciliation between them;*
4. *That by virtue of the agreement, particularly clause two (2), the parties agreed that in view of their respective professions, they had renounced to their respective rights to claim and receive maintenance from one another, and by virtue of clause eight (8) the plaintiff was bound to pay the sum of four hundred euro (€400) per month as maintenance for their son MSM. There are no maintenance arrears due by the plaintiff.*
5. *That the respondent confirms that he has no objection to the requests of the plaintiff with the condition that, he is not to bear any costs tied to these proceedings.*
6. *Save any further pleas;*

Having seen the evidence given by means of sworn affidavit;

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 7) that the parties got married on the 15<sup>th</sup> March 2003 and from this marriage a child was born. She stated that this marriage broke down and the parties separated by virtue of a contract dated 28<sup>th</sup> November 2019 in the acts of Notary Dr Mirian Musumeci Macelli. They have since been living completely separate lives. She declared that there is no prospect for reconciliation with her husband. Moreover, she stated that there are no pending maintenance arrears due between them.

**Defendant gave evidence (vide affidavit Fol 32)** and confirmed and corroborated the testimony by his wife.

**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 15<sup>th</sup> March 2003, which marriage bear the certificate number 228/2003 (vide page 17). A child was 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 Miriam Musumeci Macelli on the 28<sup>th</sup> November 2019 (vide Fol 8 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 228/2003 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**