

**CIVIL COURT
(FAMILY SECTION)**

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

Today 16th October 2024

Sworn. Application no. : 221/2023 JPG

Case No: 15

AM

vs

NM

The Court:

Having seen the sworn application filed by AM dated 25thSeptember 2023, at page 1 *et seq*, wherein it was held:

- 1. That the parties contracted marriage on the ninth day of March of the year two thousand and nineteen (09/03/2019) and from their marriage two children were born, MM who was born on X and JM was born on Y;*
- 2. That in the course of this case, it will transpire that due to reasons attributable to the respondent, including grievous offences, excesses, threats, psychological violence as well as a controlling behaviour committed by him on his wife, the matrimonial life of the parties is no longer possible and their marriage has irretrievably broken down;*
- 3. That the same aggressive and violent attitude transpired during one of the mediation sittings, during which, not only respondent was being difficult*

for nothing but he also tried to intimidate the undersigned advocate as well as the mediator with his behaviour;

4. *That the respondent used this behaviour in all aspects of the matrimonial life, and in fact not only he never gave his consent for the children to attend child care and school, so that his wife could not work, but furthermore, he obliged his wife to sell her car so that he isolates her from everyone, including her family;*
5. *That as a matter of fact, for applicant to be able to initiate the mediation process, she had to escape from the matrimonial home with the two minors and she found refuge with family members;*
6. *That for reasons attributable to respondent, the parties could never reach an amicable settlement and in fact, despite the fact that a separation contract was drafted, on the date when the mediator was meant to read the same, he informed everyone that if applicant wanted to separate she had to go to Court;*
7. *Consequently, the parties have been duly authorised to proceed with personal separation, by means of a decree given by the Civil Court (Family Section) on the twentieth of September of the year two thousand and twenty-three (20/09/2023).*

Therefore, for the said reasons, applicant humbly asks that this Court

1. *Pronounces and declares the personal separation between the parties for reasons attributable to the respondent, including grievous offences, excesses, threats, psychological violence and controlling behaviour committed on his wife; which made the matrimonial life of the parties impossible and led to the irretrievable breakdown of the parties' marriage;*
2. *Entrusts the care and custody of the minors exclusively to the applicant, so that they will continue to reside with the Mother, and she will be able to take all decisions, both ordinary and extraordinary in relation to the children's health and education, including applying and obtaining a passport for the minors, on her own, without the need of the respondent's consent or signature;*
3. *Establishes and liquidates maintenance for the minor children, with such modalities the court deems fit to order, including the provision for periodical increases so as make good for the rise of living; and this, until the minor reach the age of eighteen years should they decide to work on*

- a full time basis; and orders respondent to pay his share of the maintenance as established by this Court together with half the health, educational and extra-curricular activities expenses of the said minors;*
4. *Establishes and liquidates maintenance for applicant, with such modalities the court deems fit to order, including the provision for periodical increases so as make good for the rise of living; whilst declaring that respondent has forfeited his right to claim or receive maintenance from applicant;*
 5. *Dissolves and extinguishes the community of acquests between the parties and liquidate the same in such a way as to establish the portions in division and assign to the parties, and also to establish a date since when the respondent is considered to have forfeited any acquisition made by the work and ability of the applicant; and this with appointed experts to estimate the property involved if the need arises and with the appointment of a notary public so as to publish the appropriate act and curators to represent the respondent on the same act;*
 6. *Divides any other property the parties might have in common, which does not appertain to the community of acquests;*
 7. *Orders respondent to return to the applicant her paraphernal assets and credits which will result during the case, in a stipulated time which shall be fixed by this Court; failing which, the Court is to order respondent to pay applicant a sum of money representing the value of the said paraphernal assets, which is shall liquidate, if necessary with the aid of appointed experts;*
 8. *Applies entirely, or in part, against the respondent the sanctions established in articles 48 up to 53 of Chapter 16 of the Laws of Malta including a declaration that he has forfeited his right to inherit applicant;*
 9. *Authorises applicant to revert to her maiden surname, that is "Briffa";*
 10. *Authorises applicant to register this Court's eventual judgment with the Public Registry;*

With costs, including those of mediation, against respondent, who is summoned so that a reference to his evidence be made.

Having seen that the application, the decree and the notice of hearing have been duly notified in accordance with the law;

Having seen that the Defendant did not file a sworn reply and failed to appear before this Court and thus was declared contumacious in the sitting of 16th May 2024. After being granted the opportunity to file his submissions, this Court noted during the sitting of 18th June 2024 that he had also failed to do so (fol. 323) and thus these proceedings were adjourned for judgment.

Having seen the application filed by the Plaintiff on 25th September 2023 (fol. 14) by means of which she requested that this Court authorizes her to enrol the two children of the parties in primary school and in childcare since the Defendant had refused to give his consent hindering the children's registration. Given that the Defendant had failed to file a reply, this Court had upheld the Plaintiff's requests by means of the decree dated 26th October 2023;

Having seen the exhibited documents and all the acts of the case;

Having heard all the evidence given on oath;

Considers:

Plaintiff's Version and Evidence adduced by her:

The Plaintiff, testified on the 22nd January 2024 (vide fol 250 et seq) and explained that she had met the Defendant at her place of work and that they had married within one (1) year. Their relationship changed after their first child as she was made to breastfeed their daughters against her will and the Defendant started to check what underwear she was wearing and he would prohibit her from wearing certain underwear or revealing clothes. She had to wear trousers, long skirts and one piece swimsuits. The Plaintiff explained that the Defendant did not want the children to start attending school when they were three (3) years old because he wanted them to start as in his country of origins i.e. at six (6) years of age. The Plaintiff testified that they could not agree on the religion of their children so the children had remained unbaptized.

The parties had agreed that the Plaintiff would stop her employment to take care of their children and that the Defendant would share his salary. However, the Defendant hardly

gave the Plaintiff any money, so much so that she could not buy anything she wished for the children. He would give her a little amount just to buy the daily needs but not even enough for her to use the public transport. The Plaintiff used to propose that she would go back to work given that the Defendant always told her that they were tight with money but the Defendant always refused saying that he was trying to start his own business apart from having a job.

The Plaintiff left the matrimonial home (which they rented) one morning after he left for work as she did not want her children to see the constant arguing between them. After that the Defendant would send sporadic amounts of money but not regular maintenance. He would object to the children being administered medicine. He also objected to the children attending childcare and school so that the Plaintiff could go back to work.

After the Plaintiff left the matrimonial home, the Defendant started calling her numerous times in a day and standing outside her parent's front door so much so that her father had to intervene. The Defendant used to exercise access only to the elder daughter so that the Plaintiff would not be free to go out. When she used to tell him to take both children and they would miss each other's company, the parties would end up arguing. During such arguments, the Defendant used to threaten Plaintiff that he would take the children back to Serbia.

The Defendant travelled back to Serbia without informing the Plaintiff and this worries her in case she needs his consent.

The Plaintiff also filed an affidavit (fol. 263 et seq.) wherein she recounted her testimony in more details. She also testified that the Defendant had convinced her to sell her car telling her that she could use his old vehicle. However, he later got rid of this as well and they were left with only one car which only he used.

Plaintiff recounts that she could not buy anything as she had to beg for any money from Defendant but then he would decide that they were going abroad. Any objections to this used to lead to arguments between the parties.

Plaintiff testified that the second daughter of the parties was being breastfed, however she was not getting enough nourishment and when she suggested that they buy formula milk, the Defendant had burst out shouting and calling their daughter names.

The Plaintiff testified that after she left the first time, the Defendant had promised her that he was going to change, so she had given him another chance. Things however did not change and he kept the same routine of going to work, going to the gym and leaving her alone with the children. On most days he used to return home late at night but he expected her to remain waiting for him so that they could be intimate. When she would be too asleep to wait for him, he would either wake her up or else argue with her for the next three (3) days.

In February 2024, the Defendant had called her to inform her that he had had a collision with the car that he kept using but which was registered on the Plaintiff's name and that he had left it in the middle of the road. He gave her no further details.

The Plaintiff testified again during the sitting of 16th May 2024 (fol. 277A) during which she presented a list of expenses incurred in the raising of her two children in the year before. The Plaintiff also testified that the Defendant had gone to pick up the children for access twice in the week before that for a couple of hours on both times. Asked whether she was receiving any maintenance, the Plaintiff answered that she was not and that the Defendant was not even paying for the medical expenses such as the inhalers which she needed to buy for her younger daughter. The Plaintiff also filed a set of statements from her Revolut number which statements show all the expenses being made by her in relation to the raising of her children. She also filed documentary proof of the expenses related to Klabb 3-16 (fol. 304) and summer school (fol. 305). An account of the maintenance paid by the Defendant towards the needs of his daughters was also filed by the Plaintiff (fol. 306). Such account of payments shows irregular payments made by the Defendant. In November 2023, the Defendant made two payments of five hundred euro (€500) each which amount he also made in January 2023 and September 2023. For the other months, the Defendant either did not transfer any money or else transferred a much lesser amount.

So as to substantiate her version of events, the Plaintiff produced the following evidence:

1. The testimony of Dr Patrizia Salerno, in representation of APS Bank p.l.c. which was given in the sitting before the Judicial Assistant on 9th January 2024 (fol. 240) during which the witness confirmed that the parties did not have any banking relationship with the represented bank.
2. The testimony of Lorraine Attard, in representation of HSBC Bank Malta p.l.c. which was given in the sitting before the Judicial Assistant on 9th January 2024 (fol. 242) during which the witness confirmed that the parties did not have any banking relationship with the represented bank.
3. The testimony of Vanessa Bonello, in representation of Lombard Bank Malta p.l.c. which was given in the sitting before the Judicial Assistant on 9th January 2024 (fol. 234) who confirmed that no bank accounts were registered on either of the parties.
4. The testimony of Johanna Bartolo, in representation of Bank of Valletta p.l.c., which was given in the sitting before the Judicial Assistant on 9th January 2024 (fol. 35) who exhibited bank statements of the accounts held under the names of the parties. The account of the Plaintiff carries a zero (0) balance whereas that of the Defendant shows his monthly income from De la Rue Currency & Security Print Ltd which varied significantly along the months. The Defendant earned one thousand six hundred and fifty-four euro (€1654) in June 2019 five hundred and sixty one euro and seventy-six cents (€561.76) in December 2019 and even less in the months just before and during COVID-19. Despite this fluctuation in his income there are constant purchases that this Court does not deem as substantial for the daily living of a family such as numerous purchases from “Playstationnetwork” and from “Nutrition Empire”. From these statements, it becomes evident that the Defendant was being paid in two instalments every month which instalments are made within a few days from each other. By way of example, fol. 85 shows the salary deposit for October 2020 which was done on the 22nd of October and another deposit made on 23rd of October 2020. As from December 2021, payments are no longer visible as before that date as coming from De La Rue but instead are seen as being mobile payments. As from August 2023, the statements show that the Defendant started earning a salary from Crane Currency Malta Limited which averaged the amount of one thousand six hundred and forty-six euro (€1646) over the months shown.

This Court also makes note of the transfers made by the Plaintiff for example on 8th July 2020, there was a transfer of four hundred euros (€400) (fol. 70), a transfer of three hundred and fifty euros (€350) on 20th July 2020 (fol. 70) and another transfer of three hundred and fifty euros (€350) on 27th July 2020 (fol. 71). Another transfer was made on 21st April 2021 in the amount of two hundred euro (€ 200)(fol. 103) and another transfer on 21st May 2021 in the amount of three hundred euro (€ 300)(fol. 107).

This Court also notices that despite this being a Savings Account held only in the Defendant's name, social security contributions were deposited in his account. By way of example, on 9th September 2021 the children's allowance supplement in the amount of one hundred and twenty five euro and eight cents (€125.08)(fol. 124) were deposited. Even the maternity benefit in the amount of seven hundred and ninety-six euro and seventy-two cents (€796.72) was deposited in this account on 7th October 2021 (fol. 127) and in the amount of five hundred and ninety-seven euro and fifty-four cents (€597.54) was deposited in this account on 23rd December 2021 (fol. 134). Children allowance supplement payments can be observed throughout the remaining months in the statements.

5. The testimony of PC 598 Kelvin Farrugia, in representation of the Domestic Violence Prosecution Office which was given in the sitting before the Judicial Assistant on 9th January 2024 (fol. 190) who exhibited two (2) police reports:
 - a. Report filed on 19th March 2022 by the Plaintiff (fol. 190) to report that the Defendant had insulted and threatened her on the day. He had called her a “whore” and had threatened to smash her head against a wall and crumble it. On the day the Plaintiff had taken a risk assessment examination which resulted in a high risk situation. The Plaintiff stated that she was going to leave the matrimonial home and go to reside with her father in Birzebbugia. On the same day, the Plaintiff also reported that she had called the Defendant on his mobile and he had started to threaten her which call she had recorded. The Police requested that she attends to the Police station so that they could listen to the recording and she agreed to do so however she did not go. The Police tried to contact the Defendant on his mobile but these attempts were futile, they also posted a “letter to call” at his residence in Zejtun but he did not show up at the police station.
 - b. Report filed on 4th October 2023 by the Plaintiff (fol. 194) over the phone since she could not go to the police station as she did not have the means and the children were unwell. The Plaintiff stated that she had been having arguments with the Defendant. She stated that the Defendant had called to talk to the children and they ended up

arguing between them since he was alleging to have missing items in the house where they used to reside together. During such argument he had called her a gypsy and threatened that he was going to smash her teeth in. Despite this, the Plaintiff stated that the Defendant had never beaten her or the children up. When the Police spoke to the Defendant, he stated that he still wanted to reconcile with his wife but she was reluctant to. He also had voice recordings of the Plaintiff screaming and swearing at him whilst he was responding calmly. When asked about that specific day, the Defendant stated that it had been the Plaintiff who had said that she was going to kill him.

6. The testimony of Saviour Theuma, in representation of the Social Security Department, which was given in the sitting before the Judicial Assistant on 9th January 2024 (fol. 198) during which the witness exhibited documents that show that between 7th March 2020 and 13th June 2023, the Defendant was the person responsible for the Children's Allowance claim but the Plaintiff was the beneficiary. The Plaintiff became both person responsible and beneficiary on the 14th June 2023.
7. The testimony of Louis Buhagiar in representation of Jobsplus which was given in the sitting before the Judicial Assistant on 9th January 2024 (fol. 212) during which the witness exhibited the employment history of both parties. From the employment history of the Plaintiff, the Court notes that the Plaintiff had an employment up to the 20th May 2021. She then started working again full time on reduced hours on 18th September 2023. The Defendant also has a gap in his employment history between 24th September 2021 and 24th July 2023.
8. The testimony of Dr Christopher Spiteri, in representation of Transport Malta – Land Transport Directorate, which was given in the sitting before the Judicial Assistant on 9th January 2024 (fol. 218) during which the witness exhibited records showing that the Plaintiff owns a Volkswagen Golf which she bought in July 2019. On the other hand the Defendant does not have any vehicles registered on his name and never had any registered on his name.
9. The testimony of CC, who is the partner of Plaintiff's father which was given during the sitting of 11th March 2024. The witness testified that the Plaintiff does not have a relationship with her mother so she considers the witness as her substitute mother. They used to have daily calls during which she used to see the Plaintiff as unhappy due to the constant lack of money. She testified that there were several times that she lent money to

the parties either to pay the rent or to use for daily needs. Sometimes they paid her back, sometimes she decided not to take the money back.

The witness testified that the Defendant only let the Plaintiff go to her relatives when they needed money. The witness owns a field in Dingli where her partner and herself like to gather all the family on Sundays. There were times when he drove the Plaintiff there and she would meet her family crying that they had been arguing. According to the Defendant, all Maltese people are stupid. The Defendant did not used to speak to the witness and her partner for no justified reason. This changed a bit when the Plaintiff had decided to go back to him to try and make it work as a family. He had even apologized to her for having prejudged her.

The witness testified that she had seen the Plaintiff lose her character due to the controlling nature of the Defendant. He took away her car, left her without any money and tried to isolate her from her family. He only gave her sporadic cash like fifty euro (€50) every now and then otherwise it was the witness and her partner that provided the daily needs for the Plaintiff and their daughters.

The witness testified that the Defendant always causes a scene when he goes to pick up or drop off the children. Once because it was her daughter that went down to take the children from him, he started shouting at her and saying that she was no one. Other times he would cause a lot of disturbance and utter insults. They had to instruct him to go up the common entrance door to the door of their flat. The witness switches on the door camera to be able to see him and several times, she saw him go face to face with the Plaintiff shouting and pointing his finger in her face. When they called the police for their assistance, the police said that the need to call the Domestic Violence Unit. One time she spent eight (8) hours at the GBDV with both her young children. These incidents will be heard by the Magistrates Court in 2025.

Despite the problems she is still facing, the witness testified that the Plaintiff looks more happy than before. The Defendant continues to be unreliable with regards to access as when the mother asks him about access, he does not answer her but then expects her to prepare the older child for him from one moment to the next. The witness confirmed that the father still liked to take one child only so that the Plaintiff would still not be free.

10. The testimony of Ilona Celine Farrugia Mifsud in representation of Identita' which was given in the sitting before the Judicial Assistant on 11th March 2024 (fol. 268) during which sitting the witness exhibited a copy of the application for residence in Malta of the

Defendant in December 2016 (fol. 268), a copy of the application for residence in Malta of the Defendant in June 2018 (fol. 314), a copy of the application for residence in Malta of the Defendant in May 2019 (fol. 321), a copy of the application for residence in Malta of the Defendant in April 2023 (fol. 330), and a copy of the status of the Defendant on the day of the sitting (fol. 340) which status remained valid till May 2024. The witness testified that the Defendant enjoyed an exempt status since he was married to a Maltese citizen. Should circumstances change, such as in the case of personal separation, then Identita' would need to revoke the Defendant's application.

11. The testimony of Engelbert Galea in representation of Crane Currency Malta Ltd. which was given in the sitting before the Judicial Assistant on 11th March 2024 (fol. 350) during which the witness exhibited a copy of the letter of engagement by means of which the Defendant started employment with the represented company. This employment was subject to six (6) months probation, was for a definite time of one year which lapsed on 23rd July 2024 and the Defendant was to earn a basic salary of twenty-one thousand, seven hundred and forty-three euro (€21, 743). The same representative also exhibited seven (7) payslips relative to the Defendant which payslips show a variable income but the most recent ones show an income of over two thousand euro (€2000) as net pay.
12. The testimony of Jean Pierre Micallef in in his role of Head of School of St. Benedict College, Birzebbugia Primary School which was given in the sitting before the Judicial Assistant on 11th March 2024 (fol. 350) during which the witness exhibited a copy of the registration form for the child MM to attend Kindergarten 1. This registration form was signed by both parents. The witness also exhibited an email sent by the teacher to him with information on the child (fol. 269). Through this email, the teacher informs that the child is well-kept and always sent to school clean and with everything needed. It was also noted that the mother always picks her up from school and informs the school authorities when the child is sick such as on the day that the email was sent since the child "could not settle down after a week with her dad". The witness also exhibited a copy of the records of the school showing the attendance of the child.
13. The testimony of Saviour Theuma, in representation of the Department of Social Security which was given during the sitting before the Judicial Assistant on 11th March 2024 (fol. 271). The witness exhibited records showing the social security benefits received by the Plaintiff which consisted of children allowance and social assistance.

This Court has seen that during the sitting of 11th March 2024, a Protection Order was issued against the Defendant in terms of Art 37(2) of Cap. 16 and Art 412C of Cap. 9

of the Laws of Malta but still authorized the Defendant to pick up his children from outside the current residence of the Plaintiff.

Considers:

This is a decree following an application filed by Plaintiff requesting this Court to pronounce separation between the parties and liquidate the community of acquests present between the parties as well as regulate all matters relating to the raising of their two minor children MM born on 2nd March 2020 and JM born on 2nd December 2021.

The Plaintiff testified throughout the proceedings that the Defendant was very controlling during their marriage, controlling even her choice of clothes and leaving her without any money. On the other hand, he expected to have complete liberty, going to the gym after work and returning late at home and expected his wife to stay awake to be intimate with him. When the Plaintiff left the matrimonial home with the two children of the parties, the Defendant still sought to control her and still did not contribute towards the needs of his children.

On the other hand, the Defendant did not show any interest in these proceedings, he did not file a sworn reply and failed to appear for any of the sittings before this Court. Given the opportunity to do so, he also failed to file a note of submissions. From the evidence before this Court, it is not clear whether the Defendant is still in Malta. The contract of employment exhibited was for one definite year and the residence status was set to expire in May 2024 unless it was revoked before by Identita' when informed of the on-going personal separation proceedings of the parties.

Considers:

It has often been held that the Family Court must in all instances:

*seek to do what is in the sole interest of the minor child in its decision...
the Court must solely be guided by what is most beneficial to the child*

[...] The Court should at all times seek the best interests of the child irrespective of the allegation, true or false, made against each other by the parties. Such allegations often serve to distance oneself from the truth and serve to render almost impossible the search of the Court for the truth. This is why it is the duty of the court to always look for the interests of the child. Exaggerated controversies between the parties often make one wonder how much the parents have at heart the interest of their children. Sometimes parents are only interested at getting at each other and all they want is to pay back the other party through their minor child.¹

This Court has always held that it is generally in the best interest of the child that the child's relationship and rapport with **both** parents is preserved and protected, irrespectively of the nature of the relationship between that same child's parents.

Article 57 of the Civil Code provides as follows:

Article 57:

(1) Whosoever may be the person to whom the minor children are entrusted, the spouses shall maintain their right to watch over their maintenance and education, and shall still be bound to contribute thereto, according to law: Provided that this right may be suspended if the exercise thereof would put either the children or the other parent at a risk of harm.

(2) It shall be in the discretion of the court, according to circumstances, to fix the time, place, and manner in which the spouses shall have access to the children: Provided that the right of access may be withdrawn by the Court when the spouse who is granted such right of access fails to exercise such right without reasonable cause.

¹ Judgment of the Court of Appeal (Superior) of the 25th November 1998 *Sylvia Melfi vs. Philip Vassallo*.

(3) It shall be lawful for the court entirely to forbid such access to their minor children if it may be detrimental to the welfare of such minors or to the welfare of anyone of the parents.

Of particular relevance are sub articles (2) and (3) of the above-indicated disposition of the Civil Code. In proceedings which involve the rights of minors and those belonging to the parents, the Court has a duty to take into account that which is primarily in the best interests of the child and this is due to the fact that in the majority of cases its decisions will inevitably have a lasting effect on the life of the child. In fact, the Court of Appeal has affirmed the following:

“Din il-Qorti tibda biex taghmilha cara li, fejn jidhlu minuri, m’hemmx dritt għall-access, izda obbligu tal-genituri li t-tnejn jikkontribwixxu għall-izvilupp tal-minuri li, għal dan il-ghan, jehtigilha jkollha kuntatt ma’ ommha u anke ma’ missierha. Kwindi lil min jigi fdat bil-kura tal-minuri u kif jigi provdut l-access, jiddependi mill-htigijiet tat-tifla u mhux mill-interess tal-genituri...Huma l-genituri li jridu jakkomodaw lit-tfal, u mhux vice versa. L-importanti hu l-istabbilita` emozzjonali tat-tifla, u li din ikollha kuntatt mal-genituri tagħha bl-anqas disturb possibbli.²

Similarly, the European Court of Human Rights affirms:

The child’s best interests may, depending on their nature and seriousness, override those of the parents (see Sahin v. Germany [GC], no. 30943/96, § 66, ECHR 2003-VIII).

Considers:

² Vide decisjoni tal-Qorti tal-Appell datata 3 ta’ Ottubru 2008 fl-ismijiet Miriam Cauchi vs Francis Cauchi.

From the evidence filed before this Court, which evidence was in no way contradicted, it results that the Plaintiff could no longer endure the matrimonial strife that she had in her marriage with Defendant; she could not endure his controlling nature and the constant need to beg for money. Even when she used to beg for money, the Defendant would only give her minimal amounts for the daily groceries which would not be enough for her to use the public transport. This in a situation wherein she was the full-time carer of a toddler and a newborn. The Defendant deprived the Plaintiff from family support, her car and from the opportunity to go back to work. On the other hand, the Defendant expected to be at total liberty, returned home late at night and thus contributed very little in the extremely stressful time of having to take care of a toddler and a baby. This evidence was substantiated by the partner of the Plaintiff's father who treats the Plaintiff as her own daughter and who testified on the controlling nature and aggressive attitude displayed by the Defendant even towards third parties such as the Plaintiff's sister around access times. Very poignantly this witness testified that the Plaintiff had lost her character and was constantly sad before she left the matrimonial home whereas now they have already seen a huge difference in the Plaintiff.

The Court notes the paltry evidence of the time the father spends with his daughters and the lack of help in the actual care of the children or for example, any driving around. The Head of School provided an email from the class teacher of the elder daughter of the parties stating that it is the mother who drops off the child and picks her up from school every day at 2.15pm. Despite this lack of help, the mother seems to be managing in a commendable manner to raise the children in a healthy and happy manner. The child goes to school clean, with a variety of food and with a smile on her face. The Court observes that there is no corresponding evidence in relation to the minor child JM since the witness summoned from her childcare did not attend the scheduled sitting. However no shred of evidence hints at any concerns in the raising of either child.

The Court has seen the list of expenses filed by the Plaintiff relating to the health and educational expenses of the minor daughters. Although the Plaintiff divided the expenses into categories according to the frequency of payment of the expenses, the sworn list shows that the Plaintiff incurred an the total of three thousand, three

hundred and sixty-five euro (€3365) in expenses, thus the Defendant has an outstanding payment of one thousand six hundred and eighty-two euro and fifty cents (€1682.50).

In light of the above, this Court is satisfied that it would be in the best interest of both children to have their residence set as their mother's and that their care and custody are entrusted exclusively onto the Plaintiff. Given the lack of interest that the Defendant has shown in these proceedings, his aggressive and bullish attitude towards his wife, it is unlikely at the very least that Defendant will ever cooperate with his wife regarding the children's education and health. Therefore, the Court deems it in the children's best interests that the mother is accorded the exclusive care and custody of the children together with the primary residence of the said children.

Thus, in view of the hereabove mentioned reasons, this Court:

- 1. Upholds Plaintiff's first request, pronounces and declares the personal separation between the parties for reasons attributable to the Defendant, including grievous offences, excesses, threats, psychological violence and controlling behaviour committed on his wife, which rendered matrimonial life of the parties impossible and led to the irretrievable breakdown of the parties' marriage;**
- 2. Upholds Plaintiff's second request, entrusts the exclusive care and custody of the minor children MM and JM to the Plaintiff with whom the children shall have their primary residence; the Court orders that Plaintiff shall alone take all decisions, both ordinary and extraordinary in relation to the children's health and education and extra curricular activities and travel, including applying, obtaining and renewing the passports of the minor children, on her own, without the need of the Defendant's consent, signature or presence;**
- 3. Upholds Plaintiff's third request, establishes maintenance for the minor children in the amount of two hundred and fifty euro (€250) for each child every month which payment of maintenance shall be effected by transfer to**

the same Revolut account of the mother as earlier transfers and said transfer shall be made on the first day of each month. This maintenance shall increase every year according to the cost of living index and shall be paid until each child is eighteen (18) years of age should they decide to work on a full time basis or until each child reaches the age of twenty-three (23) if said child continues to further her studies on a full-time basis or until the child terminates her full-time study according to which condition occurs first.

Apart from the said the monthly maintenance, the Defendant father shall moreover pay fifty euro (€50) for each child every month being his contribution towards the child's health, education and extra-curricular expenses. This fifty euro (50) payment per child per month shall be paid in conjunction with the monthly maintenance indicated in the decide number three (3) such that Defendant father shall transfer the cumulative amount of seven hundred (€700) every month for the two children;

- 4. Rejects the fourth request given the Plaintiff is now in a position to work and earn an income for herself;**
- 5. Upholds the fifth request, declares the dissolution of the community of acquests between the parties; from the evidence adduced, the only property owned by the parties is the Volkswagen Golf which this Court is assigning to the Plaintiff. This vehicle is already registered in Plaintiff's name but is still in the possession of Defendant. The Court orders that this vehicle Volkswagen Golf CMS 100 be returned into the possession of the Plaintiff within forty-eight hours (48) from this judgment. In default, this Court authorises Plaintiff, with the assistance of the Police to take possession of this vehicle at the expense of Defendant;
Each of the parties shall retain every bank account held in his or her name;**
- 6. Rejects the sixth request as no evidence was adduced of any such property held in common by the parties;**
- 7. Rejects the seventh request as no evidence was adduced of any paraphernal assets and credits that are to be returned to Plaintiff;**
- 8. Upholds the eight request and applies against Defendant the sanctions established in articles 48 up to 53 of Chapter 16 of the Laws of Malta;**

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- 9. Upholds the ninth request and authorises Plaintiff to revert to her maiden surname, that is “B”;**

- 10. Upholds the tenth request and authorises Plaintiff to register this judgment with the Public Registry;**

With costs, including those of mediation, against Defendant.

Read in open court.

Madam Justice Jacqueline Padovani Grima LL.D. LL.M. (IMLI)

**Lorraine Dalli
Deputy Registrar**