



**CIVIL COURT
(FAMILY SECTION)**

MR. JUSTICE ANTHONY G. VELLA

Sitting of Thursday 3rd July 2025

Sworn Application number: 247/2023 AGV

PE

Vs

AE

The Court ;

**Having seen the application of PE , dated 19th February
2025;**

Who humbly and respectfully submits:

1. Whereas the parties were married on the 10th April 2010 in Malta and from which marriage 2 children were born being KE and JE born respectively on the 20th April 2007 and 22nd December 2010;
2. Whereas due to threats , domestic violence and serious psychological abuse, including threats on her own life and which also happened in the presence of their minor children the applicant had no other option but to life separate proceedings which are being heard by this Honorable Court in the names of PE Vs AE
3. Whereas both parties are in gainful employment;
4. Whereas prior their marriage there was no agreement between the parties as the matrimonial regime which would regulate their marriage and thus ipos jure the said regime is that of the community of acquests;
5. Whereas despite the fact that the defendant was order to pay maintenance pendente lite the applicant such payments were not honored and has been since 2021 not paying any maintenance as due and neither any contribution for the health and education of their minor children and which is rending them considerable financial distress and burdening

the community of acquests with debits including the monthly payments for defendant private motor vehicle;

6. Whereas besides this the applicant has a real and founded fear that until the court pronounces its judgement in the proceedings concerning the separation between the parties and declares the liquidation an termination of the community of acquest between the parties the applicant will become a creditor to burden the community of acquests or simulations or alternatively with any form of guarantees;

7. Whereas therefore the application refers what is provided by Article 55 of Chapter of 16 Laws of Malta and is humbly requesting this Honorable Court to order the cessation of the community of acquests currently held between the parties;

8. Whereas this request will no way cause any prejudice to the defendant since the applicant submits that bit is I the best interest of both parties to able to carry out any civil acts debit incurring by either of the parties will be solely the responsibility of the parties and which was also stated by the Court of Appeal in the case **Daniela Mizzi vs Duncan Peter Mizzi** decided on the 28th March 2014 besides others;

9. In fact the Honorable Court of Appeal had declared that:

In tema legali illi l-Artiklu 55 tal-Kap 16 li fuqha hija bbazata t-talba attrici jaghti l-fakolta' lil parti jew ohra li f ' kull zmien matul

is-smiegh tal-kawza ta' firda titlob il-waqfien tal-komunjoni tal-akkwisti residwi taht amministrazzjoni separata li tkun tezisti bejn il-konjugi t-talba għall-waqfien m'għandhiex tinghata jekk parti tkun ser issofri pregudizzju mhux jallega skont il-principju incumbit ei qui dicit non negat

10. Whereas I n further to this and without prejudice to what has already been stated the applicant also submits in his sworn reply the defendant did not oppose that the community of acquests between the parties be liquidated and terminated and in facts this was also requested by the defendant and therefore there is no valid reason for the same defendant to oppose what is being requested in this application n;

Therefore in view of the above the applicant humbly asks this Honorable Court to:

- 1. Orders the cessation of the community of acquests currently held between the parties and this as provided by article 55 of Chapter 16 of the Laws of Malta;**
- 2. Orders that the order pronounced by this Honorable Court be notified to the Director of the Public Registry and orders that within a peremptory period as established by this court be registered for such cessation to have effects as if made by public deed;**

Having seen that defendant, duly notified, failed to file a reply within the term ordered by the Court.

Having seen, therefore, that the Court could pass judgment on plaintiff's application.

DECIDE:

NOW THEREFORE, THE COURT;

UPHOLDS PLAINTIFF'S APPLICATION.

1. Orders the cessation of the community of acquests currently held between the parties and this as provided by article 55 of Chapter 16 of the Laws of Malta;
2. Orders that the order pronounced by this Honorable Court be notified to the Director of the Public Registry and orders that within a peremptory period as established by this court be registered for such cessation to have effects as if made by public deed;

Costs reserved for final judgment.

Anthony J Vella

Judge

Concetta Gauci

Deputy Registrar