



**CIVIL COURT
(FAMILY SECTION)**

**THE HON. MR. JUSTICE
NOEL CUSCHIERI**

Sitting of the 3rd March, 2009

Citation Number. 372/2008

**A B C
vs
D E F in her own name
and on behalf of the minor child G H B C;
Director of the Public Registry**

The Court,

Having seen the sworn application by virtue of which plaintiff premised: that on the 4th October 2002 he and defendant D E F got married, however on the 14th February 2008 they signed a contract of personal separation; that in the meantime the said defendant gave birth to G H on the 26th March 2008 from a relationship which she had with an english national during her stay in France between the 14th and the 21st of July 2007; that DNA scientific tests confirm that the plaintiff is not the natural father of this child who, however, has been registered in his act of birth [bearing number 1280/2008]

as being the son of plaintiff; that on the strength of the above facts, plaintiff is requesting from this Court a declaration to the effect that he is not the natural father of the child G H, and that the relative birth certificate be changed accordingly;

Having seen the sworn reply presented by the Director of the Public Registry, exhibited at fols.27 and 28 of the records of the proceedings;

Having seen the declaration made by defendant D E F during the hearing held on the 13th January 2009, whereby she declared that she “agrees with the facts [as contained in] the application, as well as with the requests”¹

Having seen the scientific report² drawn by Analyst Paul Sultana, and Pharmacist Marisa Cassar, duly sworn by them;

Having seen the Notice published in the Government Gazette according to section 254 of Chapter 16 of the Laws of Malta;

Having seen all the records of the proceedings, including the affidavits presented;

Having heard the evidence on oath;

Having considered:

The Action

That by virtue of the present action plaintiff is requesting this court to declare that he is not the natural father of the child G H born on the 26th March 2008 of defendant D E F; and that the child’s birth certificate be corrected accordingly.

The Facts

¹ Fol.30

² Fols.5 and

That from the evidence produced, the following picture emerges. In January 2007 plaintiff and his wife, defendant F, separated de facto, and from then onwards they ceased to have intimate relations between them. This has been expressly confirmed by both parties. On the 14th February 2008 they signed a contract of personal separation.

In the meantime, defendant gave birth to G H on the 26th March 2008 from a relationship that she had had with a UK national, whilst on a visit to France in the month of July 2007

On her part, defendant is in agreement with plaintiff that the latter is not the natural father of the child. This is confirmed by the scientific reports made as a result of DNA tests carried out on samples taken from the child and from plaintiff.

Considerations of the Court

That the above facts, satisfactorily proven, confirm that plaintiff's requests are justified in fact and at law, and therefore should be acceded to.

That, although defendant mentioned by name the man with whom she had had intimate relations whilst she was in France, the Court observes that not enough evidence has been produced in this case to declare him to be the natural father of the child.

Decide

For the above reasons, the Court accedes to plaintiff's requests, and hereby declares that plaintiff is not the natural father of the child G H born of defendant F on the 26th March 2008; and consequently orders that the relative birth certificate bearing number 1280/2008 be changed accordingly

All costs are to be borne by defendant D E F in her own name.

< Final Judgement >

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