

**CIVIL COURT
(FAMILY SECTION)**

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

Hearing of Monday 27th January 2020

App. No. : 281/2018/2 JPG

Case No. : 21

ESG

Vs

Dr. Joseph Ellis u l-PL Jean Pierre Busuttil bhala Kuraturi Deputati sabiex jirrapprezentaw l-interessi tal-assenti RFG, u b'digriet tal-11 ta' Jannar 2019 tordna l-estromessjoni tal-Kuraturi Dr. Joseph Ellis u l-PL Jean Pierre Busuttil b'riserva ghad-drittijiet taghom.

The Court,

Having seen the application filed by ESG dated 15th May 2019, a fol et seqq., wherein it was held:

That the applicant filed a worn application against her husband RFG for personal separation;

That as it results from the acts of the proceedings, the parties have been living

part for more than four years and have been leading a totally life, and thus, today there is no prospect of reconciliation between the two;

That upto today no order for maintenance has been given, and thus, there are no arrears of maintenance between the parties;

That therefore, the circumstances of the parties, satisfy all conditions required at law of the obtainment of divorce;

That this application is being done in terms of article 66F of Chapter 16 of the Laws of Malta and therefore applicant is hereby requesting that the first demand of her sworn application be converted to a demand for divorce;

That defendant will not be prejudiced in anyway if this is acceded to;

Therefore, applicant humbly asks that this Honourably Court accedes to her requests and orders that the demand for separation is converted to a demand for divorce, in terms of article 66F of Chapter 16 of the Laws of Malta.

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

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

Deliberates;

This is a decree following a request by plaintiff for the Court to deliver its decree on the application filed by her on the 15th of May 2019.

From the acts of the case it results that plaintiff filed separation proceedings on the 1st of November 2018, which on the 15th of May 2019 was adjourned for judgement for the 19th of June 2019. It results that on the same day, that is on the 15th of May 2019, plaintiff had filed an application in the acts of the separation proceedings requesting that the separation proceedings be converted into divorce proceedings. This application was appointed for hearing for the 19th

of June 2019. On the 19th of June 2019 judgement in the acts of the separation proceedings was pronounced, before the application for conversion of the proceedings into divorce proceedings was heard and decreed. In its judgement the Court concluded that it not did have jurisdiction to determine plaintiff's action for personal separation for the reasons indicated in the judgement and therefore declared that it was taking no further cognizance of the case.

In her note filed on the 15th November 2019 plaintiff submitted that the demand put forward by her by means of the application of the 15th May 2019 is to be acceded to and that consequently the parties' marriage is to be dissolved.

The Court however notes that in her application filed by plaintiff on the 15th of May 2019 plaintiff did not request that the parties' marriage be dissolved but rather that the separation proceedings be converted into divorce proceedings. In fact, her request read as follows: *“Therefore, applicant humbly asks that this Honourable Court accedes to her requests and orders that the demand for separation is converted to a demand for divorce, in terms of article 66F of Chapter 16 of the Laws of Malta.”* There is therefore no demand for the parties' marriage to be dissolved to be acceded to as plaintiff is requesting in her note of submissions.

The Court considers that now that judgement regarding plaintiff's request for personal separation has been pronounced, it is no longer legally possible for this Court to convert the proceedings into divorce proceedings. Upon pronouncement of the judgement, the proceedings before this Court came to end, and therefore it is no longer within the Court's authority to convert the proceedings into divorce proceedings.

For these reasons, the Court takes no further cognizance of plaintiff's application dated 15th of May 2019.

With costs.

Read.

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

Lorraine Dalli

Deputy Registrar