



**CIVIL COURT
(FAMILY SECTION)**

**HON. MR. JUSTICE
NOEL CUSCHIERI**

Sitting of the 3 rd April, 2008

Citation Number. 349/2006

Number on list: 42

**A B
vs
C B,
the Director of the Public Registry and
Advocate Doctor Anthony Cutajar and Legal
Procurator Mario Mifsud Bonnici deputy curators
appointed by court decree of the 9th November 2006
to represent the three minor children D, E u F B**

The Court,

Having seen the sworn application in virtue of which plaintiff premised: that he married defendant C B on the 4th August 1991 and had two children from this marriage; that in September 2004 the couple separated de facto in that, although they lived in the same premises, their

relationship had ended; that on the 1st. July 2006 defendant gave birth to triplets D, E and F from an extra matrimonial relationship, however on the relative birth certificates he is indicated as their legal father; that the spouses had ceased to have intimate relations since the separation date, and that defendant Jane B had started an extra matrimonial relationship. On the strength of the above, plaintiff is requesting this Court to declare that the three minor children above mentioned who were born on the 1st July 2004 are not his natural children, and consequently to order the relative correction in their Acts of Birth numbers 2210/06, 2209/06 and 2211/06.

Having seen the note of pleas filed by the Director of the Public Registry at fol. 26 of the acts of the case;

Having seen the note of pleas filed by the deputy curators, at fol. 98 of the case;

Having seen the reports of the DNA tests, confirmed on oath by Christopher Farrugia, and Pharmacist Marisa Cassar;

Having seen all the acts of the case, including the affidavits;

Having heard evidence on oath;

Having considered;

That in virtue of this action, which is based on article 70 of Chapter 16 of the Laws of Malta, plaintiff is requesting this Court to declare that he is not the natural father of the children D, E and F B born on the 1st July 2006.

That in his sworn application plaintiff confirms that intimate relations between him and his wife had ceased since September 2004. This has been confirmed by defendant C B in her affidavit wherein she states that “.. in 2003 he [plaintiff] moved out of our bedroom to sleep in the washroom. Long before that we had stopped having sexual relations.... And so I had absolutely no doubt that

the father of the triplets is not A B but John Cassar” [fol.76-77].

That in her affidavit the said defendant explains, that after September 2004 she started an extra marital relationship with a certain John Cassar who in turn confirms this fact in his affidavit. In fact, John Cassar, though not a party to the proceedings, appeared in the court sitting held on the 11th December 2007 declaring that he is the biological father of the triplets.

That the plaintiff’s case, apart from not being contested by defendant C B, finds strong support in the findings of the DNA report which indicate the above John Cassar as the father of the triplets afore mentioned.

On the strength of the above, the Court is of the opinion that the denial of paternity case filed by plaintiff is justified in fact and in law in terms of the afore mentioned article 70.

On the strength of the above, the Court decides this case by acceding to plaintiff’s request, and declares that the children D, E and F born on the 1st.July 2006 are not the natural children of plaintiff; and consequently orders that the name of the plaintiff A B, together with his personal details, be struck off from their respective Acts of Births, numbers 2210/06, 2209/06 and 2211/06, and that the phrase ‘unknown father’ be inserted instead.

All expenses are to be born by defendant C B.

< Final Judgement >

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