

**IN THE HIGH COURT FOR ZAMBIA
AT THE PRINCIPAL REGISTRY**

2018/HPF/D110

HOLDEN AT LUSAKA

(Divorce Jurisdiction)

BETWEEN:

SAMUEL SIMUTE

AND

MARTHA SAKALA



PETITIONER

RESPONDENT

**BEFORE HONOURABLE MADAM JUSTICE P. K. YANGAILO ON THE 20TH
DAY OF SEPTEMBER, 2018 IN OPEN COURT.**

For the Petitioner: Mr. Samuel Simute - In person

For the Respondent: Ms. Martha Sakala - In person

JUDGMENT

LEGISLATION REFERRED TO:

1. *The Matrimonial Causes Act, Act No. 20 of 2007*
2. *The Matrimonial Causes Rules 1973*

The Petitioner filed herein a Petition for the dissolution of his marriage to the Respondent pursuant to **Sections 8** and **9 (1) (d)** of **The Matrimonial Causes Act¹** on the ground that it has irretrievably broken down. He relied on the fact that the parties to the marriage have lived apart for a continuous period of at least two

years immediately preceding the presentation of the petition and the Respondent consents to a decree being granted.

On 3rd April 2018, the Deputy Registrar issued a Registrar's Certificate certifying that the Petitioner has sufficiently proved the contents of the Petition herein and is entitled to a decree. That there are no children of the family to whom **Section 71** of **The Matrimonial Causes Act**¹ applies. Pursuant to **Rule 33 (3) (ii)** of **The Matrimonial Causes Rules 1973**², this cause was entered in the Special Procedure List. I set the matter down for pronouncement of a decree on 20th September, 2018.

On the return date, both parties appeared in person. I asked the parties whether they intended to proceed with the Petition and if the Respondent still does not intend to defend the Petition. The parties confirmed their intention to proceed with the pronouncement of a decree as the Respondent does not wish to defend the Petition and consents to the marriage being dissolved.

Section 9 (1) (d) of **The Matrimonial Causes Act**¹, provides that in a petition for divorce, a marriage shall be found to have broken down irretrievably where the Petitioner satisfies the Court that the parties to the marriage have lived apart for a continuous period of at least two years immediately preceding the presentation of the petition and the Respondent consents to a decree being granted. I have perused the record herein and the Petition evidence establishes that the parties last lived together as husband and wife on 17th March, 2016. The Petition was filed on 28th March 2018,

thus a period of over 2 years has passed since they last lived together.

I am satisfied that the Petitioner has proved that the marriage solemnised between SAMUEL SIMUTE and MARTHA SAKALA has irretrievably broken down. I **DECREE** that the said marriage be dissolved and a **DECREE NISI IS HEREBY GRANTED**, to be made absolute within six (6) weeks of the date hereof, unless cause be sooner shown to the Court as to why it should not be so made.

The parties shall bear their own costs.

Delivered in Open Court this 20th day of September, 2018.



**P. K. YANGAILO
HIGH COURT JUDGE**