

IN THE SUPREME COURT OF SEYCHELLES

Civil Side: DC 116/2015

[2016] SCSC 126

DANIELLA CECILE LEON

Petitioner

versus

JOHN SSEBANAKITTA

Respondent

Heard: 17th February 2016

Counsel: Ms Pool for petitioner

respondent- Not available

Delivered: 17th February 2016

JUDGMENT

D. Karunakaran, J

[1] This is a petition for divorce. The Petitioner Daniella Cecile Leon has applied to this Court for dissolution of her marriage on the ground that the Respondent has deserted the Petitioner for more than 7 years and left the matrimonial home. Despite sincere attempts by the Petitioner to get the notice of the Petition served on the Respondent no notice could be served in view of the fact that he is living abroad and his whereabouts are unknown to the Petitioner. In the circumstance and in the interest of justice and in terms of rule 9 of the Matrimonial Causes Rules Chapter 124 this Court granted leave for the

petitioner to proceed with an ex parte hearing in this matter dispensing with the requirement of service of notice on the Respondent.

[2] In a nutshell the Petitioner testified that she was lawfully married to the respondent in Kampala, Uganda on 4th July 2008 as per exhibit P1. After the marriage the parties lived and cohabited at Pascal Village, Mahe, Seychelles. The Petitioner is an Accountant whereas the Respondent is in Agricultural Officer. The Petitioner is a Seychellois national, domiciled and residents in Seychelles whereas the Respondent is an Ugandan National resident and domiciled in Uganda, there are no children born of the said marriage and there has been no previous Court proceeding in respect of the said marriage. The Petitioner categorically testified that the Respondent deserted her and left the matrimonial home 7 years ago and until now she has not heard of him and his whereabouts are still unknown to the petitioner. In the circumstances, the Petitioner testified that there is no possibility of reconciliation and reunion of the family. Therefore she seeks this Court for a dissolution of the marriage.

[3] On the strength of the uncontroverted evidence adduced by the Petitioner in this matter I am satisfied more than on a balance of probability that the marriage in question has irretrievably broken down. I am equally satisfied there is no possibility of reconciliation between the parties. In the circumstances, I find it just and necessary that the marriage ought to be dissolved and I do so accordingly.

[4] Wherefore I hereby dissolve the marriage of the parties and grant a conditional order of divorce, which may be made absolute after the expiry of 6 weeks from the date hereof. The petition is granted accordingly. Accordingly, file closed.

Signed, dated and delivered at Ile du Port on 17 February 2016

D Karunakaran

Judge of the Supreme Court