

IN THE SUPREME COURT OF SEYCHELLES

Civil Side: DS174/2016

[2017] SCSC 109

MENA ANNETTE TOUSSAINT NÉE ESTHER

Petitioner

versus

DAVE PAT TOUSSAINT

Respondent

Heard: 1st February, 2017

Counsel: Unrepresented for Petitioner

Absent/ Unrepresented for Respondent

Delivered: 10th February, 2017.

JUDGMENT

Carolus Master

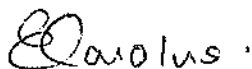
[1] This is a Divorce Petition made under the Matrimonial Causes Act. The Petitioner has applied to this Court by Petition supported by an affidavit, for divorce on the ground that her marriage to the Respondent has irretrievably broken down because the Petitioner and the Respondent have lived apart for a continuous period of more than one year

immediately preceding the presentation of the Petition and the Respondent consents to the grant of the divorce.

- [2] The Respondent having been served with a copy of the Petition appeared in Court on the date fixed for appearance of the parties and informed the Court that he consented to the grant of the Divorce. The Court proceeded to hear the cause ex-parte.
- [3] The Petitioner testified that she lawfully married the Respondent on the 6th August, 2010, at the Civil Status Office at Grand Anse Praslin, Seychelles and that immediately before the marriage, she was a spinster and the Respondent a bachelor. After the marriage the Parties cohabited at Pointe Larue, Mahe, Seychelles.
- [4] The Petitioner testified that she is a Seychellois national and that both she and the Respondent are domiciled and resident in Seychelles. She stated that other than for a period of three years from 2008 to 2011 when she was living in the United Kingdom, she has always resided in Seychelles.
- [5] She testified that she works as an air traffic controller with the Seychelles Civil Aviation Authority and that the Respondent is employed as a bus driver with the Seychelles Public Transportation Corporation.
- [6] The Petitioner testified that there are two children born of the relationship of the Parties before the marriage who are acknowledged by both parties, namely:
- (i) Aisha, Salimah Toussaint born on 5th December, 2003; and
 - (ii) Shahid, Ibrahim, Toussaint born on 10th September, 2007.
- [7] In terms of an Agreement between the Parties dated 1st July, 2016, which was endorsed by and made an Order of the Family Tribunal, the Petitioner was granted sole custody of the two children, and the modalities of access to, and maintenance of, the children by the Respondent, were agreed upon.
- [8] The Petitioner also testified there have been no previous proceedings in respect of the marriage before any Court in Seychelles or any other jurisdiction.

- [9] The Petitioner testified that the marriage has broken down irretrievably because the parties have lived apart for a continuous period since 4th May, 2013. She further stated that the Respondent consents to the grant of the divorce and produced a document of consent to the grant of the divorce signed by the Respondent.
- [10] The Petitioner also testified that all attempts at reconciliation between the parties have failed and that there is no hope of reconciliation especially since the Respondent now has another partner with whom he has fathered a child.
- [11] On the basis of the evidence before this Court, I find that the marriage of the Petitioner and the Respondent has irretrievably broken down because the Petitioner and the Respondent have lived apart for a continuous period of more than one year immediately preceding the presentation of the Petition and the Respondent consents to the grant of the divorce. I further find that there is no reasonable possibility of reconciliation between the parties.
- [12] Accordingly I grant a conditional order of divorce to be made absolute after six weeks from the date of this Order.

Signed, dated and delivered at Ile du Port on 10th February, 2017.



E. Carolus
Master of the Supreme Court