

IN THE HIGH COURT OF MALAWI
PRINCIPAL REGISTRY
MATRIMONIAL CASE NUMBER 2 OF 2018

BETWEEN

GERTRUDE JOSEPHINE SAMBAKUNSI.....PETITIONER

AND

SHUPO JOSEPH SAMBANKUSI.....RESPONDENT

Coram: Justice Jack N’riva, Judge
Counsel for the petitioner, Mrs Mauluka
Ms. Nkangala, Court Official

ORDER/DIRECTION

This matter was set down for hearing of a petition for divorce. The marriage was celebrated under the Marriage Act, Cap 25:01. The divorce was thus to be tried under the Divorce Act (Cap 25:94). See section 3 of Marriage, Divorce and Family Relations Act.

On the day of hearing, counsel for the petitioner informed the Court that the parties had drawn an agreed order for divorce. I adjourned the case for me to consider whether it was proper for the parties to enter consent for divorce under the Divorce Act. Quite unfortunately, the record was shelved instead of forwarding it to me for the purpose of preparing the ruling.

Counsel for the petitioner reminded the Court about the ruling. The inconvenience thereby caused is regretted.

I have considered the issue. I have considered whether entering judgment by consent in a divorce petition, under the Divorce Act would be a proper course of action.

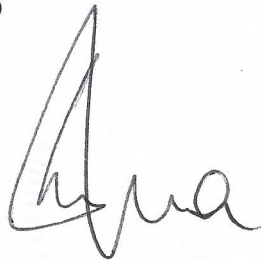
Section 7 of the Divorce Act is pertinent. The Court has to inquire into the facts alleged and whether there has been any connivance or condonation on the part of the petitioner and whether any collusion exists between the parties. The Court has to be satisfied that the case of the petitioner is proved and that the petition is not prosecuted in collusion with the respondent.

The Court will have to be satisfied of those legal requirements.

I will therefore order that the petitioner should prosecute the petition with the requirements I have pointed out. We will set down a date for hearing of the petition.

I set down the petition for 6th November, 2019

MADE the 29th day of October, 2019

A handwritten signature in black ink, appearing to read 'J N'RIVA', written in a cursive style.

J N'RIVA

JUDGE