



IN THE HIGH COURT OF MALAWI
PRINCIPAL REGISTRY
MATRIMONIAL APPEAL NO. 18 OF 2015

BETWEEN:

CHIMWEMWE YASINI.....PETITIONER

-V-

AMASI YASINI.....RESPONDENT

Coram: Hon. Justice M L Kamwambe

Mickeus of counsel for the Petitioner

Phiri.....Official Interpreter

JUDGMENT

Kamwambe J

This is an appeal against the judgment of the Third Grade Magistrate Court sitting at Blantyre. The Respondent was absent and was not represented. Mr Mickeus, counsel for the Petitioner intimated that the Respondent was duly served but that he opted not to avail himself to this court for trial. He filed an affidavit of service as the Respondent refused to accept service. Mr Mickeus further said that he was in the company of the deponent, Mr Kamkwasi, on the day of service and saw that the behaviour of the



Respondent was uncivilised. He prayed that we proceed with the appeal in Respondent's absence and I ordered that we proceed.

The parties married in 2006 and were officially divorced by the said Third Grade Magistrate Court on 25th January, 2015. They have two children a boy and a girl aged 8 and 3 then. It was a marriage by cohabitation. There were no marriage advocates (ankhoswe) to bind the marriage. The Respondent is a Muslim while the Petitioner was a Christian by faith. He wanted her to convert to islam and she commenced taking classes but stopped on the way to the chagrin of the Respondent.

The grounds of appeal are as follows:

1. The learned Magistrate erred in law and in fact in holding that both parties herein were responsible for the breakdown of the marriage when the evidence was so clear that the Respondent had deserted the Appellant and found another woman.
2. The learned Magistrate erred in law by failing to give a share to the Appellant of the two houses located at Kameza Township since the same were constructed during the subsistence of the marriage and there is no evidence to the contrary.
3. The learned magistrate erred in law in holding that the Appellant should be given 1/3 of the value of the minibus (MK110, 000.00) when there was no evidence that the Respondent had contributed more than the Appellant to the purchase of the said minibus.
4. The learned Magistrate erred in law in varying the order as to maintenance of the two children from MK20,000.00 to MK10,000.00 without evidence that indeed the Respondent

