

**IN THE HIGH COURT OF TANZANIA**

**( IN THE DISTRICT REGISTRY)**

**AT MWANZA**

**MATRIMONIAL CAUSE NO. 2 OF 2021**

**NASHEENA NOORALI PIRANI alias**

**NASHEENA NAZIM LALJI.....PETITIONER**

**VERSUS**

**NOORALI NISHADALI PIRANI.....RESPONDENT**

**JUDGMENT**

*Last Order: 8/04/2022*

*Judgement date: 12/04/2022*

**M. MNYUKWA, J.**

In this Matrimonial cause, the petitioner prays for the Judgment and decree for divorce that the court should declare that the marriage between the parties is broken down irreparably, an order of division of matrimonial assets acquired by their joint efforts, a declaration that personal assets acquired by petitioner should be granted to the petitioner, an order for custody of the matrimonial issues to be in favour of the petitioner, an order for maintenance of the two issues be ordered to the



respondent who should maintain the issues of marriage in terms of food, accommodation, clothing, incidental expenses to their education, leisure and pleasure, costs of the petition and any other relief(s) that this honourable court may deem fit to grant.

The matter was scheduled to be heard by way of video conference following the petitioner's learned counsel application in Misc. Matrimonial Application No. 128 of 2021 in which the application was duly granted by this court vide the order dated 07.12.2021. Among reason for the application was that, the petitioner was living in Canada and the respondent was living in Tanzania.

The matter successful commenced its hearing on 01.03.2022, as scheduled in accordance with the The Judicature And Application of Laws (Remote Proceedings And Electronic Recording) Rules, GN. No. 637 of 2021. The petitioner had a service of Mr.Heri Emmanuel, learned advocate and the respondent was serviced by Dr. George Mwaisondola learned advocate. Both parties and their advocates were present online and as a matter of practice, it was the petitioner who start to adduce evidence according to the petition and the matter was scheduled for a defence hearing.



Fortunately, on 08.04.2022 when the matter was coming for defence hearing, both parties through their counsel agreed to settle the matter and they filed a memorandum of settlement to this court. The settlement deed included matter in which the parties settled amicably and pray before this court to grant a decree of divorce.

When parties were asked to address the court on whether the marriage is broken down beyond repair, both of them addressed the court to the effect that their marriage is broken down irreparably. That they cannot live together under one roof as husband and wife and that the court should grant a decree of divorce as they prayed in their memorandum of settlement.

From the address of both parties, I have no hesitation in finding that the marriage has in fact and in law irreparably broken down beyond repair. Accordingly, it is hereby ordered that a decree absolute dissolving the marriage between the petitioner and the respondent is issued.

Coming to the other issues agreed by the parties amicably in their memorandum of settlement filed in this court are as follows:

- (a) The division of matrimonial assets jointly acquired be issued in the following manner



- (i) The tyre and tubes business operated in the business name of Roshan Tyres and Tubes with the petitioner registered as a sole proprietor shall be given to the respondent;
  - (ii) That, a matrimonial home located on plot No. 17 Block "K" Nyamanoro, Ilemela Municipality Mwanza registered in the name of the petitioner herein be given to the respondent through INAYATALI NISHADALI PIRANI in trust for the respondent.
  - (iii) That, a matrimonial home identified as Unit 1,148 Rockledge View NW, Calgary, Alberta Province, Canada be given to the petitioner.
  - (iv) That, a vehicle Toyota Prado with registration number T.380 ALR registered in the name of Nasheena Noorali Pirani shall be given to the Petitioner.
- (b) An order for joint custody of the two matrimonial issues Maisah Noorali Pirani and Samiyah Noorali Pirani. The two issues shall visit the respondent every year commencing the year 2023 due to their current academic schedules, and all the travel costs shall be borne by the respondent.



- (c) The respondent shall pay the tuition fees of the two matrimonial issues. The second matrimonial issue Samiyah is a Canadian citizen and therefore the tuition fee may not apply if she successful get a government scholarship.
- (d) The respondent shall pay CA\$ 1,000 per month as maintenance for the two matrimonial issues until they are independent. In the event the matrimonial issues are awarded a scholarship for tuition fees or receive an exemption to pay tuition fees, then the respondent shall pay CA\$ 1,500 per month as maintenance for the two matrimonial issues until they are independent.
- (e) That several jewelry stored under custody at DTB Bank Tanzania Limited Mwanza Branch shall equally be divided between the petitioner and the respondent. And in any case, either of the parties herein remarries another person, the portion of jewelry taken by that party shall be immediately given to the herein matrimonial issues.
- (f) The petitioner shall not have any further claims whatsoever against the respondent or any other person relating to the respondent.



Having passed through the memorandum of settlement filed in this court on 8/4/2022 and jointly drawn by parties, and signed by parties and their advocates, I hereby recorded the Memorandum of Settlement and order the said memorandum of Settlement to be adopted as a Decree of the court at this stage. The matter is marked settled to the extent explained in their deed of settlement.

Order accordingly.



  
**M. MNYUKWA**  
**JUDGE**  
**12/04/2022**

**Court:** Judgment pronounced today on this 12<sup>th</sup> April, 2022, in the presence of respondent's advocate and in the absence of the petitioner.

  
**M. MNYUKWA**  
**JUDGE**  
**12/04/2022**