

**IN THE HIGH COURT OF ZANZIBAR  
AT TUNGUU**

**MATRIMONIAL PETITION NO. 35 OF 2023**

**VALENTINA GIACOMETTI ..... PETITIONER**

**VERSUS**

**ABUBAKAR SULEIMAN BAKAR.....RESPONDENT**

**DEFAULT JUDGEMENT**

**13<sup>th</sup> Feb, & 29<sup>th</sup> Feb, 2024**

**H S.K. Tetere J.:**

This is Default Judgment. Valentina Giacometti, the Petitioner, herein, instituted instant petition against the above-named Respondent claiming for following reliefs: -

- a) The court to grant a Decree of divorce.
- b) The court to grant the Petitioner a custody of children to prevent their interest.
- c) The court to order vacant possession against respondent in the house for better interest of children as the respondent is engaged in narcotic drugs.

- d) The court to order the respondent to provide maintenance of children.
- e) Any other lawful order by the court.

To better appreciate the context of the case, it is pertinent to narrate the factual background of the matter as follows. According to the Pleading, the Petitioner and the respondent are Muslim but entered into civil marriage rites on 18<sup>th</sup> October, 2012. During the subsistence of their marriage, they were blessed with three Children of marriage, Nur Abubakar Suleiman 10 years, Omar Abubakr Suleiman 8 years and Laylat Abubakar Suleiman with 5 years old.

The Petitioner stated that she builds one house that situated at Jambiani Kikadini in the south region of Unguja and now is in process to be transfer to the children. The petitioner further stated that since the respondent engaged in narcotic drugs, they lost peace in their family. The petitioner contended that she has been tired with the Respondent's habit and she cannot tolerate living with him anymore. The petitioner also complained about being assaulted and insulted by respondent in the presence of their children. She added that the respondent used narcotic drugs in the presence of their children and he frequently arrested by police. Petitioner

tolerated that unpleasant respondent's habit for so long and made a lot of efforts to rescue the respondent from narcotic drugs but he didn't change something which put her life and their entire family in danger. Following the said unresolved misunderstandings, the Petitioner decided to petition for divorce as indicated above.

When this case was filed to High Court on 5<sup>th</sup> July 2023, it was assigned to Deputy Registrar C. K. Kuya to proceed with primary stage. Thereafter, the case was adjourned for three different sessions until on 9/8/2023 where both parties made their first appearance in court and on the same date the respondent was ordered to file his written statement of defense within fourteen days and the case was schedule for mention on 23/8/2023. When the case was called on for the mention on the fixed date, the respondent didn't enter appearance and no written statement of defense was filed to court.

On 18<sup>th</sup> September, 2023 parties appeared before Deputy Registrar of High court and the respondent submitted his written statement of defense which was in handwriting form. Consequently, it was rejected by Deputy Registrar and the respondent was given another fourteen days to file the typed

printed copy of his written statement of defense and the case was set for mention on 5/10/2023. However, on 5/10/2023, the Respondent didn't appear and no written statement of defense was filed. Thereafter, the case was scheduled for mention on 17/10/2023, 30/10/2023 and again on 21/11/2023 where the Deputy registrar made last order for the respondent to file his WSD. On 21/11/2023, the respondent didn't file the same and the Deputy Registrar forwarded the case file to Honorable chief Justice for his step.

From there, on 12/12/2023 the case was assigned to me for determination and the case was first scheduled for mention on 15/1/2024. On that fixed date, the respondent defaulted appearance and the summon was reissued to appeared on 17/1/2024.

When the case was called on for necessary orders on 17/1/2024, the Petitioner and Respondent appeared in person and both were unrepresented. Thereafter, the court made the following orders: -

- a) The respondent was granted last opportunities to file his written statement of defense within fourteen days and the same was required to be filed before 31<sup>st</sup>/1/2024.*
- b) The Petitioner to file rejoinder if any on 5/2/2024.*

c) *Framing of issues and hearing is on 13/2/2024.*

As usual, the respondent didn't file his WSD on the fixed date and the petitioner prayed to proceed with making a decision. In the circumstances, this court on 13/2/2024, ordered to proceed with default judgement as provided under order VIII Rule 10 of Civil Procedure Decree of Cap 8, of the law of Zanzibar. The order cited supra provided as follow: -

*"Where any party who has been ordered to present a written statement or other pleading fails to present the same within the time fixed by the court, the court may pronounce judgement against him, or make such order in relation to the suit as it think fit"...*

Therefore, pursuant to order VIII Rule 10 of Civil Procedure Decree of Cap 8, of the law of Zanzibar, the Petitioner is entitled to default judgment and decree against the Respondent. in the event, the Default judgment is hereby entered and the Petitioner is entitled to the following reliefs:

- a) The marriage between the petitioner, Valentina Giacometti and the respondent, Abubakar Suleiman Bakar, is hereby dissolved, and the divorce decree is accordingly issued.



- b) The custody of children is placed under the Petitioner, the respondent is accorded right to visit his children unless such arrangement interferes with their school calendar.
- c) The respondent to pay Tshs. 200,000/= per month for maintenance of his three children.
- d) There is no order to cost.

It is accordingly ordered.

Sgd: H.S.K. Tetere – Judge,  
26/2/2024

Delivered in the presence of the petitioner and respondent both were unrepresented.

Right of Appeal is explained.

Sgd: H.S.K. Tetere – Judge,  
26/2/2024

*I CERTIFY THAT THIS IS A TRUE COPY OF ORIGINAL.*

.....  
**REGISTRAR HIGH COURT**  
**ZANZIBAR.**

