

1967
Sept. 25
Oct. 9

[JOSEPHIDES, J.]

ANNITA DEREK
MORING
(OTHERWISE
PAPA PANAYI)
v.
DEREK JEFEREY
MORING

ANNITA DEREK MORING (OTHERWISE PAPA PANAYI),
Petitioner,
v.
DEREK JEFEREY MORING,
Respondent.

(*Matrimonial Petition No. 7/66*).

Matrimonial Causes—Dissolution of Marriage—Civil Marriage celebrated on the 27th March, 1961, in the office of the District Officer, Nicosia, under the provisions of the Marriage Law, Cap. 279—There was no any religious ceremony—The wife, petitioner, a Greek Cypriot and a member of the Greek Orthodox Church—The respondent husband an Englishman and a Roman Catholic—Jurisdiction—Wife's petition for divorce—Petitioner wife ordinarily resident in Cyprus for more than three years prior to the presentation of this petition—Jurisdiction of the Court to deal with the petition under the provisions of section 18 (1) (b) of the English Matrimonial Causes Act, 1950, which is applicable in Cyprus by virtue of the Cyprus Courts of Justice Law, 1960 (Law of the Republic No. 14 of 1960)—Divorce on the ground of adultery.

Matrimonial Causes—Divorce—Children—Custody—Provisional Order—Pending decree absolute and developments regarding marital status of all the parties concerned (including the woman named).

Children—Custody—See above.

Custody—Custody of children—See above.

The facts sufficiently appear in the judgment of the Court.

Matrimonial Petition.

Petition by wife for dissolution of marriage because of the husband's adultery.

C. Varda (Mrs.), for the petitioner.

Respondent absent—duly served.

The following Judgment was delivered by:

JOSEPHIDES, J. : This is an undefended wife's petition on the ground of adultery. The parties were married on the 27th January, 1961 in the office of the District Officer of Nicosia under the provisions of the Marriage Law, Cap. 279. The petitioner is a Greek Cypriot girl and a member of the Greek Orthodox Church and the respondent is an Englishman and a Roman Catholic, and at the time of their marriage he was a member of the R.A.F. There was no religious ceremony. The petitioner gave birth to three children, namely, (1) Andrew, on the 16th November, 1960 at Nicosia—actually this child was born before the marriage—(2) Androulla, born on the 19th August 1962 at Larnaca and (3) Loukia, born on the 22nd July, 1964 in London.

The petitioner, who is a Cypriot by birth and parentage is a permanent resident of Cyprus. As she has been ordinarily resident in Cyprus for more than three years prior to the presentation of the petition this Court has jurisdiction to deal with the case under the provisions of section 18 (1) (b) of the English Matrimonial Causes Act, 1950, which is applicable to divorce proceedings in Cyprus.

The petition is based on the ground of adultery committed by the husband with a woman named, that is, Eftychia Stavrou of Larnaca. This has been a very unfortunate marriage. The petitioner was married when she was hardly 17 and after she had given birth to one of the children by the respondent. Subsequent to the marriage the respondent was demobilised from the R.A.F. and they tried to settle down in England twice but they failed and they eventually came to live and work in Cyprus. They both worked in a bar in Larnaca and they resided with the wife's mother at Larnaca. At the place of their work the husband met the woman named, Eftychia Stavrou, and they eventually went to live together as husband and wife at a flat in Larnaca, situate at 25, Aphrodite Street. They lived there together from the 5th October, 1966, to some time in June, 1967, that is, for a period of about nine months. On the evidence of their landlady, Maria Philastidou, this Court is satisfied beyond doubt that they lived together as husband and wife and that the matrimonial offence of adultery has been proved. This witness produced in Court the contract of lease signed on the 4th October, 1966, both by the respondent and the woman named as tenants.

In about April, 1967, the respondent and the woman named brought to the house the younger child of the marriage, Loukia,

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where she lived with them for about a month and a half. When they moved out of the house they took the girl with them. It seems that the respondent wants to keep the child Loukia with him and to be given the custody of her, according to the petitioner's statement. Petitioner consents to this and she applies to Court to be given custody of the two older children, namely, Andrew and Androulla. The Court has before it two welfare reports which give in full the rather adventurous life of the parents as well as of the unhappy children. It seems, however, that the petitioner has more or less settled down and that she may be getting married to a young man in the near future when she will be in a better position to look after her children. The respondent husband has left Cyprus temporarily for the past two months and he is working now in England as he was unable to continue working in Cyprus. According to the second welfare report, dated the 3rd October, 1967, it is the intention of the respondent, if divorce is granted in the present case, to marry the woman named and keep the young child Loukia with him. I do not have today before me the respondent and before I decide the question of the custody, even temporarily, until the decree is made absolute, I must have before me the woman named with the younger child who, according to the latest welfare report, is stated to be living with her during the absence of the respondent husband in England.

I accordingly adjourn the proceedings for a short time to enable the woman named to appear before the Court.

ORDER : In the result *decree nisi granted*.

No order as to costs.

The question of the custody of the children will be decided after hearing the woman named.

After hearing the woman named, the Court made the following order on the same day :

ORDER : As to the question of custody of the children, on the evidence before me, the two welfare reports and the statements made by the woman named and the petitioner, I am of the view that it would be to the welfare of the children if I make the following provisional order pending the making of the decree absolute and the developments regarding the marital status of all the parties concerned : that is to say, the petitioner shall have custody of all three children but the

youngest one, Loukia, is allowed to live with Eftychia Stavrou in Larnaca until further order of the Court, on the basis that the respondent shall pay for the maintenance of that child.

The petitioner present states that for the time being she does not claim any maintenance for the other two children.

The child Loukia is not to leave Larnaca or be taken out of Cyprus without the prior leave of this Court.

Order accordingly.

Decree nisi granted. No order as to costs. Provisional order for custody of the children in the above terms.

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