

IN THE COURT OF THE CIVIL JUDGE AIZAWL DISTRICT
AIZAWL, MIZORAM
Divorce Certificate Application No. 1819 of 2016

Shri Lalbiakliana : Petitioner
S/o Lianchhuma (L)
R/o Edenthlar, Aizawl

Versus

Smt ST Lalhmingliani : Opposite Party
D/o Vaiduna (L)
R/o Edenthlar, Aizawl

BEFORE
H. LALDUHSANGA
Civil Judge

Counsel for the Petitioner : Shri. B Lalramenga, Advocate
Counsel for the Opposite Party : Shri. Lalbiakdika Sailo, Advocate

ORDER

Dated: 23.05.2018

1. This is a Divorce Certificate Application No. 1819 of 2016 filed on 15.11.2016 U/S Sec 13 (1) of the Mizo Marriage, Divorce and Inheritance of Property Act, 2014 by Shri Lalbiakliana S/o Lianchhuma (L) R/o Edenthlar, Aizawl (*hereinafter referred to as Petitioner*) against Smt ST Lalhmingliani D/o Vaiduna (L) R/o Edenthlar, Aizawl(*hereinafter referred to as Opposite Party*). The Petitioner prayed Divorce Certificate on the ground of "Sumchhuah".
2. The Petitioner submitted **inter alia** that the parties were married in the year 1996 as per the Mizo Customary Law. The Parties were married for about seven years without having any progeny. Thereafter, the Opposite Party divorced the Petitioner on 20.02.2003 by way of "Sumchhuah". The Opposite Party sent the messenger who returned bride's price to the Petitioner's family. Hence, prayed the Court to

pass a Decree in favour of the Petitioner declaring that the Parties had divorced each other by way of "Sumchhuah" and to issue Divorce Certificate accordingly.

3. The Opposite Party on the other hand in her written objection submitted **inter alia** that the present suit is not maintainable in its present form and style. No cause of action arose and the suit was liable to be dismissed. The Petitioner had no **Locus Standi** to file the present petition and so this petition was rejectable. Further, the Opposite Party strongly denied that she had divorced the Petitioner by way of "Sumchhuah". The Petitioner had left her by way of "Sazumaidawh". The Petitioner had always tried to oust her but she refused it as she had an equal share on the landed property. Even while taking her Cancer treatment, the Petitioner used to abuse her physically. Hence, strongly objected the instant petition.
4. In fact, whilst proceeding with the case at the stage of hearing on maintainability of the instant case, this Court on 22.05.2018 received a Death Certificate of the Opposite Party showing that the Opposite Party had died on 20.03.2018. Therefore, this Court considered that the cause of action in the present case is a personal cause of action. The cause of action dies with the deceased i.e ***Actio personalis is moritur cum persona*** (a personal cause of action dies with the person). The Opposite Party against whom the Petitioner is applying the decree of divorce had already died. The marriage had no longer existed to be dissolved by any Decree of divorce. The marriage tie had stood dissolved by the death of the Opposite Party. Hence, no sufficient reason (s) is found to proceed further with this non-existing marriage tie.

CPC Order VII Rule 11 Rejection of plaint

The plaint shall be rejected in the following cases:-

(a) Where it does not disclose a cause of action.

5. Furthermore, the Opposite Party had filed a strong written objection before she passed away. The Opposite Party had died during pendency of the present petition. She was no more to pursue the proceedings of the present case. The cause of action being a personal cause of action, *the right to sue* would not survive. The case had stood *abated* and become *infructuous* and disposed of accordingly.

6. With the above Order, this stands disposed of.

7. Give copy of this Order to all concerned.

(H. LALDUHSANGA)

Civil Judge - II,

Aizawl, Mizoram

Memo No.....

Dated Aizawl, the 23rd May, 2018

Copy to:-

1. Shri Lalbiakliana S/o Lianchhuma (L) R/o Edenthlar, Aizawl through Counsel Shri B Lalramenga, Advocate
2. Smt ST Lalhmingliani D/o Vaiduna (L) R/o Edenthlar, Aizawl through Counsel Shri Lalbiakdika Sailo, Advocate
3. The District Judge, Aizawl.
4. i/c Judicial Section.
5. Case record.
6. Guard file.

PESHKAR