

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
IN THE NYANYA JUDICIAL DIVISION
HOLDEN AT NYANYA ON THE 7TH DAY OF MARCH, 2019
BEFORE HIS LORDSHIP, HON. JUSTICE U. P. KEKEMEKE
SUIT NO.FCT/HC/CV/6014/11

COURT CLERK: JOSEPH ISHAKU BALAMI & ORS.

BETWEEN:

JUSTINA EBELE EJIOFOR

(Suing for herself and as Guardian of
Kelechi Abigail Ejiofor,
Chukwuebuka Isaac Ejiofor (Jnr. and
Chukwudumebi Sarafina)

.....**PLAINTIFF**

AND

1. RAHAB ZAMANI

(Known as Rahab Isaac Ejiofor)

2. EZRA ISAAC EJIOFOR

(Acting as the Administrators/Executors of
the Estate of Justice Isaac Ejiofro (Deceased))

3. DR. MRS. VICTORIA EJIOFOR

.....**DEFENDANTS**

JUDGMENT

The Claimant's Writ of Summons and Statement of Claim against the Defendants is dated 20/06/11 which was amended on 21/03/14. It is for the following:

- (i) A declaration that the letters of administration issued to the 1st and 2nd Defendants over the

estate of Late Justice Isaac Iheozor Ejiiofor is null and void.

- (ii) An Order nullifying the letters of administration granted to the 1st and 2nd Defendants,.
- (iii) An Order nullifying any act of the 1st and 2nd Defendants done pursuant to any power conferred on them by the letters of administration issued to them over the estate of late Justice Isaac Iheozor Ejiiofor.
- (iv) An Order of Court directing the Chief Registrar of the High Court of the Federal Capital Territory to ensure that the Probate Division appoints fair and unbiased administrators to manage the Estate of Late Justice Isaac Iheozor Ejiiofor.
- (v) Cost of the Suit including Plaintiff's Counsel fees.

The 1st and 2nd Defendants and the 3rd Defendant filed their Statement of Defence and Counterclaim respectively. The Claimant also filed a reply to 1st, 2nd, and 3rd Defendants' Statement of Defence and

Counterclaim. The Claimant opened her case and gave evidence for herself. She stated she is Ebele Justina Ejiofor. That she is a banker. She lives at No. 3A Suez Crescent, Wuse Zone 4, Abuja. That she deposed to two Witness Statements on Oath dated 20/06/11 and 5th March 2013. She adopts the said Statements as her evidence in this Suit.

In her first Statement she stated: That she was the wife of Late Justice Isaac Ejiofor and that their marriage was blessed with three children namely Kelechi Abigail Ejiofor, Chukwuebuka Isaac Ejiofor (Jnr) and Chukwudumebi Sarafina. The 1st Defendant, known as Rahab Zamani was not married to Late Justice Isaac Ejiofor but rather cohabited with him for several years, while he was still in private practice in Jos under the pretext that she needed assistance to divorce her husband with whom she already had two children for reason of oppression and maltreatment.

The 2nd Defendant is the child of the 1st Defendant and they both applied for and were issued with letters of

administration over the properties/assets belonging to the Estate of Late Justice Isaac Ejiofor. That her traditional wedding to Late Justice Isaac Ejiofor took place on the 31st day of December 2003 while they celebrated the marriage on the 20th of March 2004 at the Ikoyi Marriage Registry. The traditional marital rites were witnessed by family members while the registry marriage was witnessed by Late Justice Ejiofor's eldest brother Chief Stephen Ihezor Ejiofor and the 1st Defendant's father, Mr. Jackson Nsiegbunam.

Since their marriage she lived happily and enjoyed marital bliss with Late Justice Isaac Ihezor Ejiofor. They on several occasions travelled on vacations in Nigeria and abroad and attended various social functions together. He took care of his children born by her and catered for their welfare viz medical bills, school fees and sponsored their holiday trips.

At the time she became acquainted with Late Justice Ihezor Ejiofor, he had already ceased all intimate relationship with 1st Defendant, Rahab Zamani (calling

herself Mrs Rahab Isaac Ejiofor) who he had discovered did not have his interest at heart. That Late Ejiofor informed her that the 1st Defendant's daughter, Grace told him that her sibling from the 1st Defendant's marriage died under mysterious circumstance due to the careless and reckless lifestyle of the 1st Defendant. The insensitivity and callousness of the 1st Defendant was evident to the Late Justice Ejiofor, whom she never bothered to take care of during their relationship.

The 1st Defendant at various times refused to prepare meals. That on several occasions he had to keep away from his house for several days in order to avoid the emotional trauma foisted on him by the 1st Defendant. That he left the 1st Defendant in Abuja and relocated to Lagos alone because he did not want to live with her anymore.

On the death of her husband on 1/12/08 in a fatal motor accident along the Abuja-Lokoja Expressway, she was called upon to identify his corpse, she paid for and made all necessary arrangement for his corpse to

be transferred to the National Hospital Mortuary. The Death Certificate was issued to her. She undertook all expenses and arranged for the body to be embalmed and prepared for burial, bought the coffin and liaised with other members of her Late husband to fine tune the burial plans.

In a classical display of character, in her pattern, the 1st Defendant through her Solicitor went to all lengths to satisfy her inconsiderate and selfish motives including writing a Petition to the Police Command accusing her of murdering her husband in order to forestall his burial. The 1st Defendant further instigated the Police authorities to stop the removal of the corpse from the National Hospital Mortuary for burial. However after a thorough investigation, the Police authorities found out that all the allegations were false and baseless.

The 1st Defendant granted a press interview to a soft-sell magazine wherein she abused her, calling her all sorts of derogatory names. She took all the above

outrageous behaviour of the 1st Defendant with equanimity.

While she was still mourning with well wishers, the 1st Defendant through her Solicitor surreptitiously applied for and obtained from the Probate Registry of the High Court of the Federal Capital Territory, Letters of Administration over the estate of Late Isaac Ejiofor. The 1st Defendant fraudulently deceived the Probate Registry and committed perjury. The particulars of fraud are:

- (1) She deposed to an Affidavit of loss of Death Certificate which she did not obtain.
- (2) She submitted title documents to the Probate Registry over properties which she knew did not belong to the estate of Late Justice Ejiofor.
- (3) False representation that Defendants are his next of kin in his official records at the Federal High Court.
- (4) The 1st Defendant concealed the existence of other children and dependants whom she was well aware of.

That Defendants hid the existence of properties belonging to Late Justice Ejiofor including Rahinna Model Nursery/Primary and Secondary School, Jikwoyi, Phase II, Abuja, 54 Units of 2 bedroom apartment in Jukwoyi Phase I, 8 units of flats in Karu, along Jikwoyi Expressway, 38 hectares of land located at Dobi, Gwagwalada. The Letters of Administration was obtained by fraudulent misrepresentation and did not take care of the interest of the following children of Late Justice Ejiofor:

- (i) Engineer Emeka Iheozor Ejiofor
- (ii) Adamma Chichi Iheozor Ejiofor
- (iii) Kelechi Abigail Ejiofor
- (iv) Chukwuebuka Isaac Ejiofor (Jnr)
- (v) Chukwudumebi Sarafina

The title document of the properties listed in the letters of administration granted to the Defendants and many others not listed therein, were taken by the 1st Defendant from Late Justice Isaac Ejiofor's room where he kept them before proceeding to Lagos State to

take up appointment as a Judge of the Federal High Court. That Dr Ishmael Ejiofor, the brother of Late Justice Isaac Iheozor Ejiofor teamed up with the 1st Defendant to share the estate of his late brother for their benefit.

On discovering that the Defendants were processing letters of administration over her late husband's estate, she instructed her lawyers to write a Protest letter to the Chief Registrar of the Court. In his reply he said the letters of administration had already been issued on the Defendant's name. She also wrote to the NJC to stop payment of his death benefits but was informed that the benefits had already been paid to the Defendants. That apart from her children, Late Justice Isaac Ejiofor has two children who are based in the United Kingdom from his union with Dr Victoria Ejiofor nee Amadi namely Engineer Emeka Iheozor Ejiofor and Miss Adamma Chichi Iheozor Ejiofor.

Though living far away from his children, he still communicated with them. The Late Justice Isaac

Iheozor Ejiofor's first son, Engineer Emeka Iheozor Ejiofor had prior to attending his fathers burial indicated in his letter to his Uncle Chief Stephen Ejiofor, that he intends to take his rightful position as the first son. That her position as the only legal wife was acknowledged by her late husband's family as represented by the eldest surviving member Chief Stephen Ejiofor, the Chief Justice of Nigeria, the Justices of the Court of Appeal, the Governor of Imo State and a host of other dignitaries.

She claims as per the Writ of Summons and Statement of Claim.

In the Claimant's Further Witness Statement on Oath sworn to on 5/03/13, she stated as follows. She became aware that the marriage between late Justice Isaac Ejiofor and Dr Victoria Ejiofor still persisted after the death of her husband. That her husband acknowledged his children born during his lifetime. That there was never a meeting of the Defendant with late Isaac Ejiofor wherein title documents were handed

over to the Defendants in March 2003. That the records of service of her husband in his last place of service FHC was not used by the Defendants in their application for letters of administration rather the Defendants obtained his record of service at the Court of Appeal which reflected the position before he married her.

That there were no various women in the life of late Justice Isaac Ejiolor and the Defendants are put to the strictest proof thereof. That despite her encouragement her late husband did not keep in contact with the 1st Defendant after his marriage to her.

The Defendants concealed vital information from the Probate Registry and the letter from the Chief Registrar of the Court did not absolve the Defendants of any misrepresentation. That at the time the Defendants applied for the letters of administration they were aware of her existence and the existence of her children as confirmed by the 1st Defendant's Affidavit

in support of her Motion to set aside the order of Court filed on 29/11/12.

That Defendants are using the proceeds from the estate of her husband alone to the detriment of other dependants. That Rahina Model Nursery/Primary and Secondary School Jikwoyi, Phase II, Abuja does not belong to the 1st Defendant but was commenced sometimes in 2001 with funds provided by late Isaac Ejiofor who had appointed one Jude O. Eze to manage same initially. The Defendant in perpetuation of her fraudulent act committed perjury by not including the names of late Justice Ejiofor's two children. That the next of kin form in the record of service of late Justice Isaac Ejiofor relied upon by the Defendants were done before the birth of her children. That the Defendants are not entitled to any of the claims sought in their Counter claim.

The witness tendered the following Exhibits:

Exhibit A : Marriage Certificate of Plaintiff dated 20/03/04.

Exhibit B : Death Certificate of Hon. Justice Isaac Ejiiofor.

Exhibit C - C3 : CTC of the City Peoples publication pages 9 and 10 dated 29/10/08 and Revenue receipts.

Exhibit D : Funeral brochure of late Hon. Justice Isaac Iheozor Ejiiofor.

Exhibit E : Letters of Administration dated 26/07/10.

Exhibit F : CTC of Affidavit sworn to by the Defendants.

Exhibit G – G2 : Birth Certificate of Plaintiff's children.

Exhibit H – H1 : Acknowledged Copies of letters written to Secretary National Judicial Council and Chief Registrar High Court of the Federal Capital Territory.

Exhibit I : Copy of memo of late I. I. Ejiiofor dated 21/06/96.

Under cross-examination by 1st and 2nd Defendants' Counsel, witness answered as follows. She is aware that Justice I. I. Ejiiofor was married to Victoria Ejiiofor. She became aware only when he died. The children came from London when he died. To another question, she answered that he loved her because

they had children. That it is not possible for late Hon Justice Ejiofor not to regard her children as his children.

To another question, she answered that before late Justice Ejiofor was appointed a Judge, Rhahinna Model Nursery, Primary and Secondary School had been in existence and run by the Defendant. At the time of his death, they called her from Kwali that he had an accident. She rushed to Kwali, she was told that he had been rushed to Gwagwalada. That she was not the only person who had access to the corpse.

To another question, she answered that she never knew that he was with Dr Victoria. That based on what she met on ground, they had parted ways. That was what he said and what she met on the ground. To another question, she said there is no evidence showing that he was married to the Defendant. He told her orally that he was not married to the Defendant. That her parents conducted investigation before they accepted him. To a question, she answered that the

above is not in her Statement on Oath. That she was given Death Certificate as next of kin and the wife living with the deceased. That is was Justice Ejiofor who made her next of kin as the wife living with him.

That it was herself and the half brother that instructed the hospital to conduct autopsy. The elder bother of the deceased did not train him. That at the time she met him, he was single for a very long time and the elder brother was benefiting from it. He did not write a Will. His last place of work was Federal High Court, Uyo. To another question, she answered that he has record of service. She would not know if he choose her as the next of kin in his record but she does not have his record. To a question she answered that a person must be a next of kin before he can be given a letters of administration but that the Defendants are not the next of kin in the records of the Federal High Court.

That even if they are, she would still go on with the case. That her children are biological children of Late Justice Ejiofor. She said there was no time Late Justice

Ejiofor handed over title documents to the Defendant. That he told her that Defendant opened his room and packed some of his documents. That at the time, she gave him a document to register for her, the Defendant had separated. To another question, she answered that Late Justice Ejiofor was a client. She was a banker. He made attempts to retrieve the documents from the Defendant. He told his elder brother Chief Stephen Ejiofor Oparadike and his half brother Enyi and Eze about the said document.

To another question, she answered that the Defendants did not return the documents. He did not report the incident to the Police. She wants the Court to nullify the letters of administration. That 1st Defendant was not married to her late Husband. That she has three children. To another question, she answered that she did the burial. That she was recognised by his people that she was his wife. She lived with him until he died. The information that 1st Defendant was not married to her husband was given to her by her husband in 2003. She verified the

information. That she was around when he was appointed into the bench in 2002. That she took a photograph with the 1st Defendant during his swearing in ceremony. The 2nd photograph is the swearing in ceremony. The person at the right hand side is Rahab Zamani. The photographs are Exhibits J – J3. She answered that Rahab Zamani had children for Late Justice Ejiofor but they were not married. The kids in the photographs are kids of Late Justice Ejiofor.

To a question, she answered that it is possible to live with a man without getting married. Photograph marked 4 is Exhibit K, L and L1. She insists, she is next of kin to late Justice Ejiofor. She was contesting the record of service obtained from the Court of Appeal. That it is the record of service from the Federal High Court that should subsist. She does not have the record of service from the Federal High Court. That her late husband did not deny the children. She married him when he was at the Federal High Court and not when he was in the Court of Appeal. That was why

their names were not in the record of the Court of Appeal.

It was after his death she realised that he was married to 3rd Defendant. The 3rd Defendant told her in 2008 when they met that she told her late Justice Ejiofor was communicating with his children. She showed her a letter as evidence. She is close to the elder brother of her late husband Stephen.

Under cross examination by 3rd Defendant's Counsel, she answered that she met him in 2001. She met him in the Court of Appeal when he was Chief Registrar. She is a banker managing Court of Appeal funds. She was in Zenith Bank. She cannot remember when the account was opened. The account was opened before she met him. That it was the President of the Court of Appeal that referred her to him. She has been resident in Abuja since 2001. That the deceased was at a point in 2002/03 transferred to Lagos. She was going to Lagos every week and if she did not go he

was coming. She had not given birth at the time. She married him in the Court.

To a question, she answered that all heads of Court recognised her. That all letters of condolence was addressed to her. She has BSC, MSC in Economics. She was called by a passer-by when the deceased had an accident. He told her he had children with Rahab in 2003. There was no secrecy in the burial. It was announced in the Radio and Television. The names of 3rd Defendant's children are in the brochure. They also came during the burial. She does not know how much was in the account of the deceased. She is aware that there is a subpoena for the account of the deceased. Plot 64 Gwarinpa is not the deceased's Estate. It is hers. The documents are in her name. She is working. She does not know of any asset.

To another question, she answered that she is entitled to the estate of the deceased. She married him and have three children. Under re-examination, she answered that autopsy was conducted based upon

the Petition that she killed him. The above is the case of the Claimant. The 1st and 2nd Defendant filed a Statement of Defence and a Counterclaim dated 31/10/11 which was subsequently amended vide 1st and 2nd Defendants' amended Statement of Defence and Counterclaim. Prayer 39(b) is not clear it has two prayer with a lot of repetition. She however claims amongst

others as follows:

- (1) A declaration that the Claimant/Defendant to Counterclaim's purported marriage to the Late Justice Isaac Ejiofor under the Marriage Act on the 20th day of March 2004 at the Ikoyi Registry is null and void and of no legal effect whatsoever.
- (2) A declaration that Kelechi Abigail Ejiofor, Chukwuebuka Ejiofor (Jnr.) and Chukwudumebi Sarafina Ejiofor on whose behalf the Defendant is litigating as guardian are not acknowledged children of late Justice Isaac Ejiofor.
- (3) An Order of Court nullifying the purported marriage of the Claimant to the Late Justice Isaac Ejiofor under the Marriage Act.

- (4) A perpetual injunction restraining, prohibiting the Claimant from parading herself or holding herself out as a legal wife of late Justice Isaac Ejiofor.

The 1st and 2nd Defendants/Counterclaimant is Dr (Mrs) Rahab Isaac Ejiofor. She states that she lives in Airport Road, Lugbe, Abuja. She knows the 2nd Defendant. He is her first son. She also knows the Claimant. She is a friend of Hon Justice I. I. Ejiofor. They were living together up to the time of his death. She also knows the 3rd Defendant. She heard about her in 1987. When she had her first daughter and there was a big trouble in the family house. She deposed to a Witness Statement on Oath. She adopted it as her oral evidence in this case.

In the said Witness Statement on Oath sworn to on 31/10/11, she states as follows. She stated that she is the first Defendant in this Suit and the Co-administrator of the Estate of late Justice Isaac Ejiofor. That she knows the Claimant is not the wife of late Justice Isaac Ejiofor neither was the marriage blessed with three

children namely Kelechi Abigail Ejiofor, Chukwuebuka Isaac Ejiofor (Jnr) and Chukwudumebi Sarafina. That Claimant was not legally married to the late Justice Isaac Ejiofor as the Claimant knew and indeed held out the information that he had since 21/09/83 married Dr Victoria Ejiofor. That the marriage of late Hon. Justice Ejiofor and Dr Victoria Ejiofor was blessed with two children namely Engineer Emeka Ihezor Ejiofor and Adanma Chichi Ihezor Ejiofor.

That Claimant also knew that the marriage between late Justice Isaac Ejiofor and Dr Victoria Ejiofor was subsisting as at 31st December 2003 and 20th March 2004, when the Claimant claimed to have been married to late Justice Ejiofor under customary law and the marriage act. That Chief Stephen Ejiofor, Dr Ismael Ejiofor and the children of late Justice Ejiofor by Dr Victoria Ejiofor all knew that the late Justice Isaac Ejiofor in his suit in Gongola State, Wukari attempted to nullify his marriage with Dr Victoria Ejiofor and to also have custody of the two children from the marriage but failed. That the late Justice Isaac Ejiofor never at

any time acknowledged the paternity of the Claimant's children.

That she was married under customary law to late Justice Isaac Ejiofor on the 15th October 1989, they lived together in Jos and Abuja. The marriage was blessed with four children with the 2nd Defendant as the first child. The marriage only suffered a disruption when the Claimant, an accomplished gold digger under the guise of being a banker, marketing her banking services to late Justice Ejiofor as Chief Registrar of the Court of Appeal 'snatched' the said Justice Isaac Ejiofor from her and her children.

That she enjoyed the marriage for 15 years before the disruption of the marriage by the Claimant. That even after his relocation to Lagos as a Judge of the Federal High Court, Late Justice Isaac Ejiofor was always in touch with her the 2nd Defendant and other children of the marriage. That he came to the family house, House 28, 38 Crescent, Gwarinpa I, Abuja in March 2003, on the occasion of her travel on pilgrimage to

Jerusalem, called a family meeting with her and the children in attendance to discuss his involvement with the Claimant. That her late husband admitted the extra marital affair with the Claimant and apologized to the family but explained that if he withdraws from the relationship, the Claimant was likely going to embarrass and scandalize him and ruin his professional career.

In the meeting her late husband told the family that he still loves and cherishes them and in order to demonstrate goodwill towards them and secure the future of the family. He came from Lagos to assure them that they are his only family and next of kin and that he has come to give and hand over to them all the properties they had acquired as couple since their marriage. That the Late Justice Isaac Ejiofor proceeded to handover to the family through her (1st Defendant) title documents hitherto in his possession listed below:

- (a) Aco-Hiteck Limited/Abuja Municipal Area Council (AMAC) original letter of offer of sale of

a single wing of Executive Three Bedroom Semi-Detached Bungalow (Plot No. AHEX 101B at New Lugbe, along Airport Road Abuja) Ref No. AMAC/ACO/JHE/P10JB/3B/236/2001 dated 9th February 2001 in the name of Gideon Zamani.

(b) ACO-Hiteck Limited/Abuja Municipal Area Council (AMAC) Original Letter of Offer of Sale of a Single of Executive Three Bedroom Semi-Detached Bungalow, (Plot No. AHEX 101B at New Lugbe, Along Airport Road, Abuja.) Ref. No. AMAC/ACO/JHE/P10JB/3B/237/2001 dated 9 February, 2001, in the name of Rahab Inna Zamani.

(c) Kuje Area Council, offer of terms of Grant/Conveyance of approval letter Ref. No. KAC/FCDA/ LP & S/1M – 1363 of 28/03/01 for Plot No. B41 in Pasali Village Ext, Kuje in the name of Ejiofor Isaac Iheozor.

(d) Ministry of Federal Capital Territory, Land, Planning and Survey Department, AMAC Zonal Planning Office, Offer of the Terms of Grant/Conveyance of Approval dated 8/04/02

for Plot No. 218 in Kpeyeghi Layout in the name of Ejiofor Isaac Iheozor.

- (e) Abuja Municipal Area Council, Abuja Conveyance of provisional approval of Plot No. 187 at Gbazango Phase II of 15/06/96 in the name of Chief Ben U. Ezihe.
- (f) Abuja Municipal Area Council, letter of allocation of open space No. WH44 at Nyanya for building warehouse (Ref. No. AMAC/WKS/049 dated 17/07/98 in the name of Hajara Mohammed Sabo.
- (g) Original letter of allocation of a Residential Plot of land at Gwarinpa II Estate, 1998 over Plot NO. 64 1st Avenue, C Close, Gwarinpa II Estate, Abuja in the name of B. Achiatar.

That Claimant's relationship with Late Justice Ejiofor was solely that of a mere mistress and all claims of travels etc were acts of benevolence and not responsibility of a husband to wife or father to children. That her husband maintained contact with her and children and was at all times responsible for the up

keep of the children and the cost of their education up to the time of his death. That it is not true that one Miss Grace or any person told Late Justice Ejiofor that her act of carelessness brought about the death of her siblings. That he did not leave her as a result of any callousness or failure to prepare meals but was ensnared and trapped through the adept hand of the Claimant who is a celebrated husband snatcher and gold digger.

That he relocated to Lagos only after he was appointed a Judge in 2002. She stayed back in Abuja because they had lived in Abuja for 10 years before his appointment. She was running a nursery, primary and secondary school (Rahina Model School) Jikwoyi Abuja and did not want to distort the arrangement overnight. That she applied for letters of administration in November 2009 more than 1 and half years after his death. After confirmation from the Chief Registrar of the Federal High Court, Lagos that from the record of service transmitted from the Court of Appeal from

where he moved to the Federal High Court, the 1st and 2nd Defendants were next of kin.

That she filed all necessary probate forms of the High Court of the FCT, provided all documents required by law and paid all fees due for the application. That legal notice by the Probate Division of the High Court was published in the New Nigerian Newspaper Wednesday Edition of 23/12/09 at Serial No. 62. That only after the period of 21 days for entering a Notice to Prohibit at the Probate Registry of the FCT High Court has expired. That Defendants were granted Letters of Administration having satisfied the requirement.

That she did not fraudulently depose to an Affidavit of loss of Death Certificate of Late Justice Isaac Ejiofor. That all title documents she submitted to the Probate Registry in support of the application for Supplementary Inventory to the letters of administration were amongst the title documents given to her and her children by her late husband with details as contained in the application for Supplementary

Inventory to the letters of administration dated 9th July 2010 and addressed to the Chief Registry of the High Court of the FCT. That after the death of late Justice Isaac Ejiolor, she instructed her Solicitors Zakari A. Sogfa and Co. to write to the Chief Registrar of the Federal High Court, Lagos in view of the number of women that were involved in his life, to amongst others find out from the records, the next of kin of the Late Justice Isaac Ejiolor. That in reply, the Chief Registrar by his letter dated 4/03/09 indicated that 1st and 2nd Defendants from the records available are the next of kin.

That as next of kin with her son, she instructed the aforementioned Solicitors to take steps to process the life benefit of her husband. That in response to her Solicitors letter dated 20/07/09, the Chief Registrar of the Federal High Court forwarded a CTC of the Records of Service and CTC of last paid certificate of the husband. She went through the records and confirmed herself and 2nd Defendant as next of kin. That she was also named wife. He also named:

- (1) Emeka Ejiofor
- (2) Adah Ejiofor
- (3) Ezra Ejiofor
- (4) Martha Ejiofor
- (5) Obed Ejiofor
- (6) Guni Ejiofor

as his children.

That she knows her children. She is also aware that Hon. Isaac Ejiofor has two other children living in England with their mother but have never met them or seen them. That apart from the children listed in the records of service of late Hon Justice Isaac Ejiofor, she is not aware of any other children of late Hon. Justice Isaac Ejiofor and did not conceal knowledge of any child or dependent of the late Hon Justice Isaac Ejiofor from the Probate Registry. She did not conceal or hide the existence of any property belonging to him particularly Rahina Model Nursery/Primary and Secondary School, Jikwoyi, Phase I, 54 Units of 2 bedroom apartments in Jikwoyi, Phase I, 8 Units of Flats

in Karu along Jikwoyi Expressway, 38 hectares of land located at Dobi, Gwagwalada.

That the letters of administration were not obtained by fraud or misrepresentation. That Claimant and her children are unknown to the Estate of late Hon. Justice Isaac Ejiofor and are just 'speculators' and 'treasure hunters'. That Claimant either through ignorance, intentional deceit or self delusion expended energy to buy and to persuade relatives, colleagues of late Hon. Justice Ejiofor, her colleagues in Zenith Bank Plc and even herself that she was married to the Late Hon. Justice Ejiofor and went about securing sympathy and condolence notes to justify her deluded claim of being the legal and recognized wife of the Hon. Justice Ejiofor. She prays the Court not to grant the reliefs sought in the Claim.

After adopting the above Witness Statement on Oath on the 17/03/16, and the case adjourned to enable witness tender the relevant documents (on her application, the witness) the 1st Defendant recanted

stating ***“I am not adopting everything in the Witness Statement on Oath”*** claiming there was an error by her former lawyer which she wants to rectify. She now says she got married on the 19th of November 1982 traditionally.

Under cross examination, witness answered as follows. I have four children for my husband. That 2nd Defendant is her son. That he is her 1st child for late Justice Ejiofor. She had him after the marriage. The 2nd Defendant was born in 1991. To a question, she said she got married in 1982 September 14. To another question, she said she could not remember the date but that it was a weekend. That she was in the marriage until 2002 when he was sworn in as Judge of the Federal High Court.

To a question she said she did not say what is contained in Paragraph 4(b)(d) of her Witness Statement on Oath. That she detected errors. That 1989 – 2004 is 15 years. To another question, she

answered that she got marriage in Jos when he was practising law in Jos. They came to Abuja in 1992.

She said she went to Israel alone. She does not have any knowledge of his travelling but she can remember him travelling out of the country. She does not know that her late husband was getting married in England within eight months of his marriage with her. In an answer to a question, she denounced Paragraph 7 of her Witness Statement on Oath. She said it is not true that the reason she changed evidence and claimed 1982 is to mislead the court. That the errors are that of her Counsel. That when the Counsel filed the Oath, she was in hospital. In answer to a question, she said she did not depose to the knowledge of the marriage in Paragraph 4(b) of her Oath. Paragraph 20(g) was not what she said.

She admitted tendering Exhibit M. That Exhibit M shows that the 3rd Defendant marriage to Justice Ejiofor is null and void. That she got the document from late Justice Isaac Ejiofor. That her husband died in 2008. To

another question. She answered that she does not know that Emeka and Adah are Hon Justice Ejiofor's children. She did not list them in Exhibit F.

To another question, she said Paragraph 20(e) of her testimony on oath is not her word. She agreed she filed an application to vacate an order of Court against her. She said in the Affidavit in support of the application that she stated that N10 Million out of the N37 Million was used to complete late Hon. Justice Ejiofor's building in the village. That the building is yet to be completed. That she has not been working on it for sometime. That the building is for her and the children. That she expended the remaining N27 Million in the training of her children.

To another question, she said Dr Victoria was married to one Rev. Anozie and that she had two kids for him. That her husband told her. She does not know the kids. That it is her son that is first son and not Emeka Ejiofor. She got married to her late husband under customary law.

To another question, she said she has her wedding pictures but she was not asked to produce them. That the pictures are in the village. That she is a Nigerian.

She denounces paragraph 7 of her Oath.

To another question, she answered that the bride price and traditional marriage was done on 14th September 1982 and November 1982 respectively. Her first son is 27 years old. He was born in 1990.

When she married him, he was a practicing lawyer. She does not know if he was not a lawyer in 1982. She is aware of her interview granted by the City People Magazine. That in that document she did not say she married Justice Ejiofor in 1982.

To another question, she said the 1st two properties in the inventory belongs to her as in paragraph 12 of her Oath. That the said properties are in her name. That she participated in the purchase of these properties. That she contributed and bought some of these properties with her money. That 1st, 2nd and 3rd

properties were bought by her although the 3rd is in the name of Kpesyi. She paid for all the properties from her account.

To another question, she answered that she did not know how the lawyer put these properties in Exhibit E – The Letters of Administration because the properties are hers. She paid three Million for the last property stated in Exhibit E. She paid it from her business money. What is in paragraph 12 of her Oath is the same as in Exhibit E.

To another question, she answered that she cannot see the properties mentioned in paragraph 12(a) (b) in Exhibit E, the Letter of Administration. That the Rahina Model School belongs to her. That she started the school since 2nd October 2001. That the aforementioned school is not located in any of the properties listed in Exhibit E or paragraph 12 of her Oath. She was a Senior Lecturer at College of Education Zuba. She was also importing goods from Spain. The business was done under Rahina Project. She denied using the word 'gold digger' in Paragraph

7 of her Oath. She stated that the Rahina School is registered. She is the Sole Owner. That D. Woje has nothing to do with her. G. Woje also has nothing to do with her. She does not know K. Woje. The only person she knows is her grand father who is Woje.

The 2nd Defendant's witness for the 1st and 2nd Defendants is Victor Collins Oduma. He lives in kubwa and works at the Federal High Court. He was a Principal Administrative Officer. He was served with a Subpoena to tender some documents. He tendered Exhibits N and N1 which are CTC of Records of Service of Late Justice Ejiofor and CTC of his personal emoluments.

On a question by Claimant's Counsel, he answered that it is a record of service of any civil servant. The above is the case of 1st and 2nd Defendants.

The 3rd Defendant's witness is the 3rd Defendant herself. She is Dr. Mrs. Victoria C. Iheozor Ejiofor. She is a Medical Practitioner, Consultant/Pediatrician with

special interest in disability. She lives in the United Kingdom. Her address in Abuja is No. 16 Ndagi Mahmud Crescent, Jabi District Abuja FCT. She filed her Statement of Defence and Counter claim. The 3rd Defendant's Counterclaim is as follows:

- i. A declaration that the Claimant herein is an intermeddler in the Estate of Late Justice Isaac Iheozor, Ejiofor, not having been validly married to him under the Marriage Act and is therefore liable to render accounts of all the properties belonging to the deceased estate that she has dissipated and also hand over any other property belonging to the deceased's Estate in her custody to the eldest member of the Iheozor – Ejiofor family for redistribution to 'the mothers' heirs of the deceased.
- ii. A declaration that the 1st and 2nd Defendant's are also intermeddlers in the estate of the deceased late Justice Isaac Iheozor Ejiofor the 1st Defendant not having been validly married under the Marriage Act and are therefore liable to render accounts of all properties belonging to

the deceased's estate that have been dissipated and also hand over any other property belonging to the deceased's estate in their custody to the eldest member of the Iheozor family for redistribution to 'the mothers' heirs of the deceased.

- iii. A declaration that the Letters of Administration over the deceased's estate granted to the 1st and 2nd Defendant over the estate of late Justice Isaac Iheozor is null and void for the perjury committed by 1st Defendant in the application for grant of the said letter of Administration.
- iv. An Order of Court nullifying the Letters of Administration granted to the 1st and 2nd Defendants by the Probate Division of the High Court of the FCT.
- v. An Order of Court nullifying all acts done pursuant to any Power conferred on them by the said Letters of Administration issued to them over the estate of Late Justice Isaac Iheozor Ejiofor.

- vi. An Order of Court directing the Claimant and 1st and 2nd Defendants, their agents, servants, privies and their assignees to render accounts of the estates, properties or assets of the late Justice Isaac Ejiofor.
- vii. An Order of Court directing the Chief Registrar of the High Court of the FCT to take over and manage the Estate of Late Justice Isaac Iheozor Ejiofor pending the redistribution of the deceased's Estate by the eldest member of the Iheozor Ejiofor's family to the heirs of the deceased.
- viii. An Order of Court revoking the sale of any property or asset belonging to the deceased's estate and or ordering all such intermeddlers to (refund), retribute their assigns.
- ix. An Order restraining the Claimant from further unlawful intermeddling with the money in the Zenith Bank Plc accounts of the deceased.
- x. An Order compelling the Claimant to render account of all monies withdrawn from the deceased's Zenith Bank Plc..

- xi. An Order compelling the Claimant to render an account of all monies and properties received in the course of calling or parading herself as the legal wife of the deceased's Estate.

The 3rd Defendant's witness deposed to a Witness Statement on Oath titled '**Additional Witness Statement on Oath**' sworn to on 21/06/18. She adopted same as her evidence in this Suit. In the said Statement, she denied the Claimant's claim of being a wife of the deceased and state that she was the only lawful wife of the deceased Late Justice Isaac Iheozor Ejiofor.

That Claimant is put on notice that the paternity of the said Chukwudumebi Sarafina is also hereby put in contention even as a DNA test shall be required to challenge Claimant's claim of the deceased paternity

She married the Late Justice Ejiofor under native law and custom in Naze, Owerri, Imo State sometime in July 1983 before friends and family. He was the involved in private legal practice in Jos. Sequel to his support and encouragement that she should proceed

to the United Kingdom for her Post Graduate Studies in Pediatrics and Child health, they traveled together to London and on 21/09/83 registered their marriage at the Chelsea Kessington Court Registry, London and was followed by a Church Wedding Ceremony on the 23/04/84 at the Assumpta Cathedral Church Owerri, Imo State. The marriage was blessed with two children namely Nnaemeka Uzoma Chiedozi Ejiogor and Chimdinma Uchechi Ejiogor born on 8/04/85 and 6/02/88 and baptized on 28/07/85 and 27/02/88 in the presence of their Late father at St. Mary's Cathedral, New Castle Upon Tyne.

That 1st Defendant was also a mere mistress to the deceased who cohabited with him for several years and gave birth to 4 children (the 2nd Defendant being the first) while he was still legally married to her. That 1st and 2nd Defendants wrongfully and unlawfully applied for and were issued with Letters of Administration over the properties/assets in the deceased's estate, which they were not entitled to do both under statute and natural law and custom of the Ogwa people of Mbaitolu Local Government Area of Imo State which

requires that the first son of a deceased person becomes the head of the household in place of his late father and is exclusively entitled to the compound where the deceased was buried and any property therein and shall hold all other assets (whether fixed or floating) including but not limited to money, properties and investments in trust and care for his other siblings pending when the family head and elders of the extended family shall share all such other assets and properties among the recognized wives, sub households/ mother lineage and subsequently every recognized wife/mother distributes her own block share amongst her children.

The Claimant was fully aware of her marriage to the deceased before proceeding to marry him as she did. The deceased died on 1/12/08. That from the Death Report to Coroner and Post Mortem examination, the late Justice Isaac Ejiolor purportedly died alone in a car accident without his Police Orderly or driver which said death was successfully stage managed single handedly by the Claimant while being about two

months pregnant with the said Chukwudumebi Sarafina.

The Claimant unilaterally undertook all expenses towards the burial of late Justice Isaac Iheozor Ejiofor because of her hidden personal motives. That immediately after the death of the deceased, the Claimant contacted her stating that from what the deceased left behind, none of the deceased children would suffer, only for her to subsequently state after meetings that she would ensure and delay the quick dispensation of justice.

That her son Engineer Emeka received a letter containing his father's death from his uncle Chief Stephen Iheozor-Ejiofor seeking his consent to enable family members make burial arrangements.

That herself and children hastily returned to the United Kingdom immediately after the burial because of the charged and hostile atmosphere between the Claimant and the 1st Defendant wherein Petitions to the Nigeria Police on allegations and Counter

allegations on the cause of death as well as Newspaper interviews granted to City People in October 29 2008 were in the public domain. The 1st Defendant with the aid of her Solicitor applied and obtained from the Probate Registry of the High Court of the FCT Letters of Administration over the estate of her late husband. The 1st Defendant falsely misrepresented to the Probate Division of the High Court of the FCT that the late Justice Isaac Iheozor Ejiogor appointed 1st and 2nd Defendants as his next of kin in his official records at the Federal High Court which is not true as no records or Exhibits were attached. That her inability to apply for the said Letters of Administration was as a result of personal illness, multiple bereavements etc. That neither the Claimant nor the 1st Defendant are in a lawful position to apply for or be granted Letters of Administration over her husband's estate as she was the only legal wife of the deceased.

After her marriage on the 21/09/83, they set up their home in the United Kingdom where they lived happily

together. It was after their daughter's birth and christening in February of 1988 that she became aware of the deceased's extra marital activities in Nigeria. That her marriage to the deceased subsisted and she remained the only legal wife to the deceased till his death on 1/08/08. That in line with custom and traditions of the Ogwa people of Mbaitolu Local Government of Imo State to which the deceased was subject, Nnaemeka Uzoma Chiedozie Ejiofor being the first son of the deceased ought to be the head of all descendants of the Late Justice Isaac Iheozor Ejiofor in place of his father and is exclusively entitled to the compound which the Claimant has placed under lock and key not allowing anyone but herself, children and friends. That Claimant unlawfully sold off the deceased's property at Plot 64, 1st Avenue, C Close, Gwarinpa II Estate, Abuja, the subject matter of Suit No. FCT/HC/CV/2219/10 to one Mr. Martins Ofili Jnr. She is ready to play a motherly role in uniting her children with their siblings (brothers and sisters) that are confirmed children of Late Justice Isaac Iheozor-Ejiofor which fact shall be confirmed by a DNA/Paternity test.

The 3rd Defendant's witness tendered the following Exhibits:

Exhibit O – Copy of CTC of Marriage Certificate between witness and late Justice Ejiofor.

Exhibits P and P1 – The CTC of Birth Certificate of Nnaemeka Uzoma Ejiofor and Chidinma Uchechi Adanma Ejiofor.

She orally prays the Court to dismiss the Claimant's claim and grant her Counterclaim.

Under Cross-examination by 1st and 2nd Defendants' Counsel, she answered that she does not know if 1st Defendant got married to the deceased traditionally but she can confirm that 1st Defendant came to her house in Jos during her 1st son's christening.

She was introduced to her by her late husband as a Christian friend and client. He was involved in her divorce.

To a question, she answered that she got to know that he was in a relationship with 1st Defendant through the bestman in her wedding Mr. Innocent Oparadike. That her husband continued to plead with her for understanding. That he derailed. The best man also pleaded on his behalf.

To another question, she answered that the act of his having extra marital affairs was a common knowledge. That she got to know about the records of service from her Counsel. She was told the 1st Defendant was the next of kin, she said, she made contact with the Federal High Court and they said the children are the next of kin but did not name any children.

To another question, she answered that she will have no cause to be angry if the children of 1st Defendant are the real biological children of her husband.

To another question she answered that she was not invited to attend his elevation to the Federal High Court Bench deliberately. That following his

involvement with the 1st Defendant, she has always been threatened with her children to the extent that her late husband told her it was not in their interest to be around. He maintained that their safety was paramount.

To another question, she answered that she could not report to the Police because she was in England. That in December 2015, she was almost killed by both Claimant and 1st Defendant. She understood what was happening, that was why she was not angry for not being invited to the swearing in ceremony.

She answered that she was aware a divorce proceeding was instituted against her in Wukari because he was under pressure to do so. The said action was dismissed.

Under cross-examination by the Claimant's Counsel, the witness answered as follows:

Dr. Amadi is her Practice name. She calls herself DR. MRS. VICTORIA IHEOZOR EJIOFOR. She spoke to him

severally up to 1996. She remembers speaking to him in August, 2000 during her younger sister's wedding. To another question, she answered tha he was not attending to her upkeep.

She did not ask for feeding and education of children because, she could do that by her self and that his involvement with the 1st Defendant was irritating her.

She got information about his wealth from the Claimant after his death. She participated in the creation of the wealth because she unilaterally brought up the children and was taken care of herself.

To another question, she answered that she knows Barrister Chukwuma Onyeocha. That following Claimant's disclosure, she started appealing to her to allow the children come together. She refused to open the door. She then called for legal service.

To another question, she answered that Christopher Okoro was her business partner.

She denied having any intimate relationship with him.

She remembered buying joint property with him. That Mr. Okoro's mother is from her village. That he read Business Studies. That they had a joint business account.

To another question, she answered that he was visiting her since 1996 but she did not visit him.

To another question, she answered that she was told about the relationship between her husband and the Claimant. She learnt they were fighting about his estate. That 1st Defendant was not allowed to be in the burial.

To another question, she answered that it is not right that she broke down the door of her late husband's property. That it was not because of her refusal to return to her husband that caused the initiation of the divorce suit.

She was to return when her husband said he had built a house and wanted her and the children to return only for her to hear that he died mysteriously.

She cannot recall instituting a case in Imo State for recovery of property.

She denied signing the Preaction Counselling Certificate but said she signed the Witness statement on Oath in the High Court premises at Maitama.

To another question, she answered that it is not the wealth that is her interest.

The above is the case of the 3rd Defendant.

3rd Defendant's Written Address is dated the 12th day of October 2018. Learned Counsel to the 3rd Defendant adopted same as his final oral argument. He raised two Issues for determination:

1. Whether considering the marriage between the 3rd Defendant and the late Hon. Justice Isaac Ihezor Ejiofor which was celebrated on 21/09/83, the subsequent purported marriage between the Claimant and the 1st Defendant

respectively to the late Justice Isaac Iheozor Ejiofor was not null and void.

2. Whether the Letters of Administration applied for and granted to the 1st and 2nd Defendants' ought to be set aside for being invalid and not granted in accordance with the provisions of the High Court of the FCT Civil procedure Rules 2018 governing the grant of the Probate and Letters of Administration.

The 1st and 2nd Defendants also adopted their Final written Address undated but filed on 5/11/18.

Learned counsel also raised two issues for determination which are:

1. Whether considering the affirmation and declaration by late Justice Ejiofor (deceased) in his record of service (Exhibit N) as to whom his next of kin is, the grant of Letters of Administration to such as appointee by the Chief Registrar of the FCT was not proper.
2. Whether the grant of Letters of Administration to any Applicant under Order 62 Rules 6-10 of the

FCT High Court Civil procedure Rules 2018 is predicated on the condition that the Applicant must be the wife of the deceased.

The Claimant's Written Address dated 23/11/18 was also adopted by her Counsel as his Final Oral argument. He also raised two Issues for determination:

1. Whether the Letters of Administration issued to the 1st and 2nd Defendants is not vitiated by fraud.
2. Whether the Claimant has proved her case to entitle her to Judgment.

I have read the pleadings, reliefs and evidence of parties.

I have also considered the Written Addresses of Counsel as adopted. All issues raised by Parties are essentially the same. The following issues cover all issues germane for the determination of this Suit.

They are:

1. Whether considering the marriage between the 3rd Defendant and late Hon. Justice Isaac Ihezor Ejiolor which was celebrated on the 21/09/83, the subsequent marriage between the Claimant and the 1st Defendant respectively to the late Justice Isaac Ihezor was not null and void.
2. Whether the Letters of Administration applied for and granted to the 1st and 2nd Defendants ought to be set aside for being invalid and not granted in accordance with the law.

I have earlier summarized the evidence of parties. The evidence of the PW1 is that her traditional wedding to Late Hon. Justice Isaac Ejiolor took place on the 31st day of December 2003 and later got married under the Marriage Act on the 20th day of March 2004.

Exhibit A is the Marriage Certificate issued at the Ikoyi/Obalende Marriage Registry, Ikoyi.

She gave evidence that one Chief Stephen Ihezor Ejiofor, her late husband's eldest brother and Mr. Jackson Nsiegbunam, the 1st Defendant's father signed Exhibit A as witnesses. She further said, she lived happily and enjoyed marital bliss with late Justice Isaac Ihezor Ejiofor. They undertook holidays abroad.

She further gave evidence that at the time of her marriage with late husband, he had ceased all intimate relationship with the 1st Defendant Rehab Zamani who called herself Mrs. Rahab Isaac Ejiofor.

In order to prove the legality of her marriage, she said she paid for and made all necessary arrangement for his corpse to be transferred to the National Hospital, obtained his Death Certificate which is Exhibit B. She was the person called upon to identify the corpse. She bought the coffin. She said her position as the legally recognized wife of Late Isaac Ejiofor was acknowledged by Late Justice Isaac Ihezor Ejiofor's family Chief Stephen Ihezor Ejiofor, the Chief Justice of Nigeria, the Justices of the Court of Appeal, the Governor of Imo State and a host of other dignitaries.

In further proof, the Claimant relies on Exhibit D, Funeral brochure containing the catalogue of condolence messages addressed to her and the photographs of the Claimant and her children amongst others.

Under Cross-examination, her evidence is that she was aware that Justice Ejiofor was married to Victoria Ejiofor, the 3rd Defendant but said she became aware after his death. Her late husband told her he was not married to the 1st Defendant. That she lived with him until he died. It was when he died that she realised he was married to 3rd Defendant. The 1st Defendant on the other hand disputed the marriage of the Claimant to the late Justice Ejiofor. She also denied in evidence that her children are the biological children of the late Justice Ejiofor.

She in evidence said she got married to Late Honouable Justice Ejiofor on the 15th of October 1989 under native law and custom. That they lived together

in Jos and later in Abuja. That the marriage was blessed with four children. That the marriage suffered a disruption when the Plaintiff an accomplished gold digger under the guise of a banker snatched the Late Justice Ejiofor from her. That she enjoyed her marriage for 15 years before the disruption. That the Claimant's relationship with the Hon. Justice Ejiofor was that of a mere mistress.

However after adopting her Statement on Oath, she recanted on the following by stating she was no more adopting everything in the said Statement on Oath.

In-between the time she adopted her Statement on Oath when she asked for an adjournment date to tender documents, the 3rd Defendant filed her Defence and Counterclaim.

On resumption, she now made a turn around and said she now got married on the 19th November 1982.

Under Cross-examination, she said she got married in 1982 September 14. On a further probing, she said she

got married in 1982 but could not remember the date but that it was a weekend.

The pleading and evidence on Oath before this Court is that she got married on 15th October 1989 under customary law. There is however no evidence of where the marriage took place other than that they lived in Jos and Abuja. She stated that the marriage between the 3rd Defendant and Late Justice Ejiofor was dissolved by virtue of Exhibit M.

The 3rd Defendant's evidence is that she got married to the Late Justice Iheozor –Ejiofor under Native law and custom in Naze, Owerri, Imo State sometimes in July 1983 before friends and family. They thereafter traveled to United Kingdom and on 21/09/83 registered their marriage at the Chelsea Kensington Court Registry, London which was followed by a Church Wedding Ceremony on 23/04/84 at Owerri Imo State. Exhibit O is the Certified True copy of the entry of Marriage Certificate.

The Law provides that no marriage in Nigeria shall be valid where either of the parties thereto at the time of the celebration of such marriage is married under native laws and custom to any other person with whom such marriage is had.

OLANIYI JOSEPH VS. SAMUEL ADEGOKE & ANO.(1974)
SUIT NO. HOY/24/27 High Court of WESTERN STATE, OYO
JUDICIAL DIVISION, Judgment delivered on 27/05/1974.

The 3rd Defendant's marriage was the first in time. It was conducted under native law and custom. Sometimes in July 1983 at Naze, Owerri Imo State.

On 21/09/83,, the marriage was registered in the Marriage Registry. There is no contrary evidence before me. The above piece of evidence is not disputed.

By virtue of Section 3(1) of the Matrimonial Causes Act 1970, a marriage shall be void in the following circumstances namely where:

- a. either of the parties is at the time of marriage already married to someone else.
- b. The parties are within prohibited degrees of consanguinity (blood relations) and affinity (relations by marriage)
- c. Failure to comply with the formalities laid down under the law of the place where the marriage was celebrated.
- d. The consent of either one of the parties is not real consent because it was obtained by
 - i. fraud or duress or
 - ii. that either party was mistaken as to the nature of the ceremony or as to the identity of the other party or
 - iii. that one party was mentally incapable of understanding the nature of a marriage contract or
 - iv. either of the parties was not of marriage age.

See ***AIYEGBUSI VS. AIYEGBUSI 1974 Suit No. 1/238/171***, High Court of Western State, Ibadan Judicial Division.

It is clear from the evidence before me that the Late Justice Iheozor Ejiofor was already married to Dr. Victoria Iheozor Ejiofor at the time he contracted the marriages to the 1st Defendant and subsequently to the Claimant. The 3rd Defendant's marriage was under the Act and was first in time. The 1st Defendant has said in evidence that the marriage between Late Justice Ejiofor was dissolved by Exhibit M the Judgment of the High Court of Gongola State sitting at Wukari. She said she followed the said Hon. Justice Ejiofor to the Court.

I have perused the said Judgment. The 1st Defendant's evidence is far from the truth. The Petition seeking to nullify the marriage was rather refused. In other words, the said marriage was subsisting at the time she entered into the marriage with Justice Ejiofor. The Claimant on the other hand was also aware of the subsistence of the marriage of the late Hon. Justice Ejiofor to the 3rd Defendant before plunging into another purported marriage with him. Therefore

paying for and making all arrangement for deceased corpse to be transferred to the National Hospital, single handedly burying the corpse, obtaining the death certificate, obtaining loads of condolence messages at her prompting by all dignitaries in Nigeria by the Claimant cannot confer legitimacy on a void marriage.

In the circumstance, it is my view and I so hold that the subsequent marriages to the Claimant and 1st Defendant are void.

Issue 1 is resolved in favour of the 3rd Defendant against the 1st Defendant and Claimant.

On the second issued whether the grant of the Letters of Administration to the 1st and 2nd Defendants ought to be set aside for being invalid having not been granted in accordance with the provision of the law. The Claimant's evidence is that the 1st and 2nd Defendants are not entitled to be granted Letters of Administration in respect of the Estate of the Late

Justice Ejiofor. That the said Letters of Administration was obtained by misrepresentation.

The 1st and 2nd Defendant's contention is that by virtue of the fact that they are the next of kin, they are entitled to the Letters of Administration. On the other hand, the 3rd Defendant's contention is that under native law and custom, her son being the eldest, is the one entitled to administer the Estate of the deceased for and on behalf of his siblings through their mothers. In proof of her entitlement to be granted Letters of Administration, the 1st and 2nd Defendants tendered Exhibit E – Letters of Administration.

Exhibit F – The Form A.

By Order 48 1(1) of the High Court of the FCT Civil procedure Rules 2004, - Subject to the provision of Rules 39 and 40, where a person subject to the jurisdiction of the Court dies, all petitions for the granting of any Letters of Administration of the estate of the deceased person, with or without Will attached

and all applications or other matters connected shall be made to the Probate Registrar of the Court.

9. A Court shall require evidence in addition to that offered by the applicant, where additional evidence in that regard seems to the Court to be necessary or desirable respecting
 - a. Identity of the deceased or of the applicant or
 - b. The relationship of the applicant to the deceased or
 - c. Any person or persons in existence with a right equal or prior to that of the applicant to the grant of Probate or administration sought by the applicant or
 - d. Any other matter which may be considered by the Court relevant to the questions whether the applicant is the proper person to whom the grant should be made.
- 10 (1) Where it appears to a Court that some persons other than the applicant may have at least an

equal right with the applicant to the grant sought, the Court may refuse the grant until all the notice of the application has been given to such other persons and an opportunity given for such persons to be heard in regard to the application.

- (2) A Court may in its discretion refuse the grant unless and until all persons entitled to the grant in priority to the applicant have expressly renounced their prior grant.

Exhibit F is an affidavit sworn to by the 1st and 2nd Defendants in support of their application to be granted Letters of Administration in respect of the estate of Hon. Justice Ejiofor.

In the said Affidavit she described herself as the wife and son of Late Justice Ejiofor. There is no allusion to the fact that there was the 3rd Defendant or Claimant. In the eye of the law, she was not even a wife. There is also no allusion to

the fact that there were other children from other women in the declaration of next of kin Form.

On the column wife/wives, the 1st and 2nd Defendants cancelled wives and filled in her name as the only wife.

On the column for number of children, she filled in the names of her children leaving out the first two children of the deceased and the last three children of the purported marriage to the Claimant. I observed the 1st Defendant in the Witness Box, from her demeanor, she is not a Witness of truth. Her evidence is contradictory. The Court cannot pick and choose which of the evidence to believe. Throughout trial, it is not proved by evidence that the children of the Claimant are not biological children of the Late Justice Isaac Ejiofor. The Blacks law Dictionary Eight Edition defines Next of Kin as the person or persons most closely related to a descendant by blood or affinity. An intestate heirs i.e the person or

persons entitled to inherit personal property from a descendant who has not left a WILL.

A descendant of a dead person. From Order 48 of the rules of Court under which the Letters of Administration was granted, the fact that a person is the next of kin or a legal wife does not make it automatic for the applicants to be granted Letters of Administration. All relevant information ought to be disclosed and requirement of law fulfilled. The 1st and 2nd Defendants held back/misrepresented facts to the Probate Registrar misleading him to grant the Letters of Administration sought.

She failed, refused or neglected to disclose persons in existence with a right equal or prior to hers for the grant of Letters of Administration. She also failed to disclose her proper relationship with the Late Hon. Justice Ejiogor. She held back information relating to the 3rd Defendant and her two children. She also knew of the existence of

the Claimant and her children but failed to disclose same.

From the evidence, all other relevant informations were withheld from the probate Registrar.

In the circumstance, the Letters of Administration is not issued in accordance with the High Court of the FCT Civil procedure Rules 2004 as it was obtained by misrepresentation. The issue is resolved in favour of the 3rd Defendant against the Claimant.

Reliefs 1, 2, 3, of Claimant's Claim is the same as 3rd Defendant's reliefs iii, iv and v. The claims succeed.

The 1st and 2nd Defendants' Counterclaim fails and they are accordingly dismissed.

The 3rd Defendant's Counterclaim succeeds.

Judgment is however hereby entered in favour of the 3rd Defendant against the Claimant and 1st and 2nd Defendants as follows:

1. It is hereby declared that the 1st Defendant/Claimant are intermeddlers in the estate of Late Justice Isaac Iheozor Ejiofor.
2. It is further declared that the Claimant and 1st and 2nd Defendants are liable to render accounts of all the properties belonging to the deceased's estate and that they are accordingly ordered to render account of all monies and properties in their possession as listed in the supplementary inventory & others to the Probate Registrar of this Court forthwith.
3. The Letters of Administration dated 14/01/10 issued by the Probate Registrar of the High Court of the FCT is hereby declared null and void.
4. All acts done in furtherance of the Letters of Administration are hereby nullified.
5. Any sale involving any property or asset of the deceased estate is hereby revoked.

6. The 1st, 2nd and 3rd Defendants (to Counterclaim) are hereby restrained from further intermeddling or interfering with the Estate of the Late Hon. Justice Ejiofor in any manner whatsoever pending the redistribution of the deceased estate.

The Probate Registrar is consequently ordered to issue Letters of Administration upon application to the 3rd Defendant (wife), the Late deceased Eldest son NNAEMEKA EJIOFOR and the Late Justice Ejiofor's eldest brother Chief Stephen Ejiofor or any representative of his extended family who shall in turn fairly administer or distribute the Estate amongst the wife and children of the deceased.

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HON. JUSTICE U.P. KEKEMEKE

(HON. JUDGE)

7/03/19.