

**IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY,
IN THE ABUJA JUDICIAL DIVISION,
HOLDEN AT COURT NO. 12 BWARI, ABUJA.
BEFORE HIS LORDSHIP: HON. JUSTICE O. A. MUSA.**

SUIT NO: FCT/HC/BW/PET/20/2019

BETWEEN:

SHOLA EMMANUEL OBAISI PETITIONER /APPLICANT

AND

MARYVIANA CHIZOBA OBAISI RESPONDENT

JUDGMENT

DELIVERED ON 3RD JULY, 2017

This is a Petition for divorce brought by the Petitioner Shola Emmanuel Obaisi against the Respondent Maryviana Chizoba Obaisi which address is at Plot MF16 Cadastral Zone O7 - 05 Akpabuyo Street Kubwa Abuja. Who is a businessman in Abuja Petition the court for a Decree of Dissolution of marriage between him and the Respondent Maryviana Chizorba Obaisi which address is Flat 7B Road 15 Federal Housing Estate, Woji Port Harcourt, River State and who's occupation was a safety officer with Shell Petroleum Development Company Of Nig. Ltd in River State.

The Petitioner then a bachelor was unlawfully married to the Respondent then the lawful wife of Mr. Emeka Uwadike at the

Marriage Registry Port Harcourt River State on the 18th day of December 1998. From the record of the court the Petitioner was born in 1965 in Edo State while the Respondent was born in 1973 in Imo State.

This action was commence under an order of substituted service via an Ex-parte order which was granted to the Applicant / Petitioner when personal service become impossible dated the 22nd May, 2019, haven served the respondent with the process of the Petition, she did not filed her response.

During the trial the Petitioner stood as a sole witness and stated as follows:

Previous to the marriage, the Petitioner was residing at his personal resident at Flat 7B Road 15 Federal Housing Estate Woji Port Harcourt River State before he relocated to Abuja where he presently reside at Plot Mf16 Cadastral 07 - 05 Akpabiyo Street Kubwa Abuja and has remain so within the jurisdiction of this court since 2004. Immediately after the marriage the parties cohabited at Flat 7B Road 15 Federal Housing Estate Woji Port Harcourt River State but however on the 17th December, 2013 the Petitioner discovered that the Respondent was validly married to Mr. Emeka Uwadike when he stumbled on her e-mail correspondence with him, and by so

doing cohabitation between the parties since from 4th March, 2014 when it becomes obvious to the Petitioner that the respondent was indeed married to Mr. Emeka Uwadike under the tradition of Igbo Land on 14th April, 1994 and the marriage was still valid and subsisting when the marriage between the Petitioner and the Respondent was celebrated.

During the 4 years of their marriage, there were blessed with two children namely:-

1. Sharon Obaisi
2. Emmanuel Obaisi Jnr.

The Petitioner has never connived with anybody or guilty of any collusion in filing this Petition. It equally shows that the Respondent has been in full custody of the children since the Petitioner found out that the marriage was void and left.

So therefore, the Petitioner after 15 years of hurting has resolved to marry again; so therefore, he seeks for an order of nullifying of the void marriage in order to get marry again. It was on these bases that the petitioner seeks the following orders:-

1. A decree of nullity of the marriage between the Petitioner and Respondent on the ground that the Respondent was validly married to another person when she misrepresented

her status to the Petitioner and celebrated a marriage with him.

2. An order other the Honourable court may deem fit in the above circumstance.

This Petition was supported by verifying affidavit sworn to by one Shola Emmanuel Obaisi Nigeria Citizen, Male, Christian, businessman residing at Plot Mf16 Cadastral Zone 07 - 05 Akpabiyo Street Kubwa Abuja signed by the deponent himself. It equally has attached an eleven paragraph affidavit of urgency sworn to by the Petitioner himself.

In conclusion, the Petitioner urged the court to dissolve the marriage between him and the Respondent hence they have stay apart for 15 years.

Haven carefully considered the Applicant prayer it is within the meaning of section 15 sub 1 of the Matrimonial Causes Act which could be inferred that where one of the party in the marriage as in this case the Respondent abandon and forsakes without any justification thus renouncing his or her responsibility and evading his or her duties the court can go ahead to hold that a party to a marriage can present a Petition for dissolution of the marriage upon the ground that the marriage has broke down irretrievably and the court can proceed to dissolve such marriage especially that the petitioner

prayer is unchallenged and uncontradicted to that extend therefore, it is save to hold that the marriage between the parties has broken down irretrievably hence they have since lived apart for a continues period of at least 3 years immediately presiding the presentation of the Petition as provided in section 17 (2) of the Matrimonial Causes Act.

Furthermore, the unchallenged Petition and also living apart for over 15 years, it was held in the case of **SPDC Nig. Ltd V. Edamkue** (2009) ALL FWLR pt. 489 at pg. 435 paragraphs B - C where it was held that:-

"A trial court is entitled to rely and act on the uncontroverted or uncontradicted evidence of a plaintiff or his witness/ witnesses. In such a situation, there is nothing to put or weight on the imaginary or proverbial scale. In such a case, the onus of proof is naturally discharged on a minimum proof."

And also see the case of **Omotude Vs. Omotude** (2001) 9 NWLR pt. 718 at 284 paragraph. D - E.

Finally haven come to the conclusion that the parties cannot live in the same roof any longer therefore, I hereby announce the dissolution of the marriage between the Petitioner and the

Respondent, same haven broken down irretrievability and grant all the Petitioner reliefs sought in this case.

That's the judgment of the court.

APPEARANCE:

Adeniyi Shoda Esq. for the petitioner

Sign

Hon. Judge

03/07/2019