

**IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY**  
**IN THE ABUJA JUDICIAL DIVISION**  
**HOLDEN AT COURT NO. 4, MAITAMA ON THE**

**6<sup>TH</sup> DAY OF FEBRUARY, 2023**

**BEFORE HIS LORDSHIP: HON. JUSTICE U. P. KEKEMEKE**

**MOTION NO. FCT/HC/M/1342/2022**

**COURT CLERKS: *JOSEPH ISHAKU BALAMI & ORS.***

**IN THE MATTER OF THE APPLICATION FOR THE APPOINTMENT**  
**OF DR. MOLLIE AKADOSOWO ATAINYANG OF 11 MARYDALE**  
**PLACE, WINNIPEG, R2V 1P2, MANITOBA, CANADA, AS THE SOLE**  
**LEGAL GUARDIAN OF MISS GIFT ONYINYECHI CHIJOKE**

**PASTOR CHILAKA FRIDAY CHIJOKE ..... APPLICANT**  
(The natural Guardian of  
MISS GIFT ONYINYECHI CHIJOKE)

**RULING**

This is an ex parte application by Pastor Chilaka Friday Chijioke. It is brought pursuant to Sections 31, 42 (1) & (2) of the 1999 Constitution and Sections 1, 2, 3, 4, 83, 84, 85, 120 & 150 of the Child's Rights Act, 2003 and under the inherent jurisdiction of the Court.

It prays the Court for:

- (1) An Order appointing DR. MOLLIE AKADOSOWO ATAINYANG of 11 Marydale Place, Winnipeg, R2V 1P2, Manitoba, Canada, as the Sole Legal Guardian of MISS GIFT ONYINYECHI CHIJIJOKE for the purpose of her protection, mental and psychological health, education, financial needs and general human care and provisions until such a time as Miss Gift Onyinyechi Chijioke can reasonably be able to provide for herself in Winnipeg, Manitoba or any other part of Canada.
- (2) Any other Order or further Orders as the Court may deem fit to make in the circumstance of the case.

Learned Counsel rely on the 24-paragraph Affidavit sworn to by the Applicant. He deposes that he is the father of Miss Gift Onyinyechi Chijioke of 12 Gonder Close, Zone 1, Wuse, Abuja.

That the mother of Miss Onyinyechi died on the 8<sup>th</sup> day of February 2006. That he is a retired Pastor of the

Apostolic Church of Nigeria. That he is paid stipend just enough to sustain the barest minimum living standard.

That when his wife died, the said proposed guardian and husband took charge of and provided for the education and general well-being of Miss Gift Onyinyechi. That the proposed sole guardian is now in Canada as a permanent resident.

That she is well known to his family. That she is desirous of giving the best opportunity to Miss Gift Onyinyechi. That as a result of his economic situation, he cannot afford to give her the fatherly protection and education.

That Olivia Atainyang whom Gift Onyinyechi Chijioke carried and cuddled as a little baby of one month has sorely missed her. That it will be in the interest of Gift to appoint Dr. Mollie Akadosowo as the sole legal guardian.

That this application is required as part of immigration requirement since she is a minor. That Gift Onyinyechi has been thrown into the emotional and psychological pain. That Covid-19 and JUSUN Strike contributed to the

delay in bringing this application. That it is in the interest of Gift Onyinyechi to grant this application.

I have read and considered the Written Address of Counsel. Firstly, Learned Counsel to the Applicant brought the application under Sections 31 and 42 (1) & (2) of the 1999 Constitution.

Section 31 of the 1999 Constitution deals with Nigerian citizenship. It is not relevant to this application.

On the other hand, Section 42 is about right to freedom from discrimination. The issue before this Court is for the appointment of a guardian *ad litem* and not about any fundamental right.

The Applicant, his Counsel and the Affidavit have not placed materials before the Court to suggest that there is discrimination of any kind against the Applicant or his daughter.

The application is also brought under Sections 1 - 4, 83, 84, 85, 120 and 150 of the Child's Rights Act.

Section 1 of the Child's Rights Act, 2003 states, "In every action concerning a child, whether undertaken by an individual, public or private body, institution or service, Court of law or administrative or legal authority, the best interest of the child shall be the primary consideration."

Section 2 (1) of the Act states, "A child shall be given such protection and care as is necessary for the well-being of the child taking into account the rights and duties of the child's parents, legal guardians or other individuals, institutions, services, agencies, organisations or bodies legally responsible for the child."

Section 277 of the Act defines a child. It states, "child" means a person under the age of eighteen years.

Exhibit SLG6A attached to the application is a copy of her Certificate of Birth while Exhibit SLG6C is her International Passport. Both exhibits show that the Applicant's daughter whom he is seeking a guardian to be appointed for is 23 years of age.

Age of majority is also defined by the same section as the age at which a person attains the age of eighteen years. The said Gift is therefore an adult.

The excuse of the Applicant in paragraphs 21 and 23 of his Affidavit is that the case would have been filed earlier if not for Covid-19 or JUSUN Strike. The answer to that assertion is that even at that time Miss Gift Onyinyechi Chijioke would still have been over 18 years.

In the circumstance of this case, the Child's Rights Act does not apply. The Applicant's daughter is a full grown adult. This Court will not shave her head behind her.

The application lacks merit and it is dismissed.

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**HON. JUSTICE U. P. KEKEMEKE**  
(HON. JUDGE)  
06/02/2023

Parties absent.

Juliana Ahaneto Obanilu, Esq. for the Applicant.

**COURT:** Ruling delivered.

(Signed)  
**HON. JUDGE**  
06/02/2023