

**IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT ABUJA**

BEFORE HIS LORDSHIP: HON. JUSTICE MUHAMMAD S. IDRIS

COURT: 28

DATE: 28TH NOVEMBER, 2022

FCT/HC/CV/2671/2019

BETWEEN

MRS. JESSICA INEBIMO EBU-----

APPLICANT

AND

MR. UGOCHUKWU EBU-----

RESPONDENT

JUDGMENT

This application is brought by the Respondent pursuant to section 6 (6) of the 1999. The ground for the Application is as stated thus :-

1. The Applicant has the same claim in her counter claim pending before the Jiwa Customary Court of the Federal Capital Territory Abuja.
2. The Applicant has filed a Civil suit for divorce between herself and the Respondent at the Galadimawa Customary Court.
3. The suit amount to forum shopping
4. The suit is bad for want of competence having not been initiated by due process.
5. The suit is bad for want of forum convenience.
6. The suit amounts to abuse of the process of this Honourable Court.

In support of the application is an affidavit deposed to by one Emmanuel Michael Assistant Secretary (Admin) in the law firm of M.A Ofeoshi & co., solicitors to the Respondent/Applicant.

The affidavit is dated 20th November, 2019 the affidavit contains 11 paragraph as follows:-

1. That I know as a fact that the Applicant/Respondent filed a counter claim before the Jiwa Customary Court of the FCT where she claimed amongst other things custody of the children to the union between her and Respondent.
2. That I know that the counter claim is still subsisting and have not been withdrawn before the filing of this suit, and have not been struck out or dismissed.
3. That the main case which the counter claim was filed same was struck out on the ground that the claim as presented before the Court did not specifically fall within the schedule of claim which the Court can entertain in that the Customary Court cannot be likened to a chiefs' intervention in the internal relationships and that the Court does not compel parties to reconcile or settle.
4. That while the claim of the Respondent was truck out the counter claim is still subsisting.
5. That the Respondent/Applicant has appealed against that ruling.
6. That the Records of Appeal has been compiled and transmitted to the Appellate Court in Appeal No. CCA/CCA/28/2019.
7. That this matter arising from the same subject matter between Applicant and Respondent is now in four different Courts namely; the Customary Jiwa FCTA, The Customary Court Galadimawa FCTA, the Customary Court of Appeal FCT Abuja and this Honourable Court.
8. That I was informed in chambers on the 20th day of November, 2019 at about 11:00am by M.A Ofeoshi Es1, Counsel to the Respondent which I verily believe to be correct and true thus:-

- (i) That this Court cannot handle the issue of divorce which can conveniently be taken by either the Customary Court Jiwa or the Customary Court Galadimawa along the issue of custody.
- (ii) That this Court is not convenient to dispose of all matters as the other Courts which can handle both divorce, custody of children and other matters.
- (iii) That apart from being forum shopping, it is a forum not convenient for parties who are already in other Courts.

That I was informed by the respondent Mr. Ugochukwu Ebu in chambers on the 25th day of October 2019 at about 2:pm, the following facts which facts I verily believe to be correct and true thus:-

1. That whereas for the sake of the fact that he sought to ward of a stranger whom Applicant was having illicit affair with but that the Applicant chose to frustrate all efforts to reconcile the matter aided by a new found lover.
2. That the Children are better off from every perspective of this since the parties have been separated; welfare, academics, morals and psychological upbringing.
3. That the Applicant Mrs. Jessica Ebu does not possess the capacity to take care of the children morally, psychologically and academically.
4. That the Applicant is been aided by one Mr. Emeka Njoku; her lover while still living with him as a wife.
5. That the multiplication of the actions is deliberate aimed at wearing him out.
6. Now attached and marked as:-
 - (i) Exhibit UGO 1 is the notice of appeal dated 5th September, 2019 in Appeal No. FCT/CCA/CVA/28/2019.

- (ii) Exhibit UGO 2 is the particulars of defence and counter claim in suit No. FCT/CC/CV/14/2017 where the counter claim is still pending before the Jiwa Customary Court.
- (iii) Exhibit UGO 3 is the ruling of the Jiwa Customary Court where the Court declined jurisdiction on the ground that the case of the Respondent as presented did not fall within the schedule of causes of action of the Customary Court Jiwa.
- (iv) Exhibit UGO 4 is the complaint as filed before the Customary Court Galadimawa which is still pending and ongoing.
 - 1. Exhibit attached are exhibit marked as Exhibit UGO 1 is the notice of appeal dated 5th September, 2019
 - 2. Exhibit UGO 2 is 1st Defendant's amended particulars of defence counter claim
 - 3. Exhibit UGO 3 is the ruling of the Jiwa Customary Court
 - 4. Exhibit UGO 4 is the Civil summons complaint

On the other hand the Applicant/Respondent filed a counter affidavit in opposition to the preliminary objection dated 25th February, 2020 the counter affidavit contains 17 paragraph, I refer in the ruling particularly the following paragraph 2-16. I would in the cause of writing this ruling reproduce substantial part of the paragraph entered in the counter affidavit filed.

The depositions in Paragraphs 4, 5, 6, 7, 8, 9, 10 and 11 of the Respondent/Objector's (the Objector) affidavit are incorrect and misleading. The correct facts are as follows:-

- i. Suit No. FCT/CC/JIW/14/2017 was instituted sometime in October 2017 by the Objector wherein he sought the following reliefs: a) "An order directing the 1st Defendant (i.e. the Applicant/Respondent herein) to bring her relations for a round table traditional settlement of the dispute between 1st Plaintiff (i.e. the Respondent/Objector

herein) and the 1st Defendant arising from her illicit affairs with the 2nd Defendant:- (b) An order restraining the Defendants from tampering with the children of the union between 1st Plaintiff and 1st Defendant pending the final settlement of the dispute between 1st Plaintiff and 1st Defendant;

c) An order restraining the 2nd Defendant from further interfering in the matrimony between the 1st Plaintiff and 1st Defendant or having anything to do with the 1st Defendant henceforth; (d) An order restraining the Defendant from using the Police or any other means to disturb the Plaintiffs, their homes, school or anything appertaining to Plaintiffs henceforth." As can be gleaned from the aforementioned reliefs, the reliefs I am seeking in the instant suit are not the same as those sought by the Objector in the said suit. For ease of reference, my reliefs are as follows: (a) "An order of this Honourable Court granting the Applicant the custody of Miss Ego Adaugo Ebu [6 years] and Master Udo David Ebu [4 years], who are currently in the custody of the Respondent: (b) and for such orders or further order(s) that this Court may deem fit in the circumstances." It is not correct that my counter-claim is still subsisting before the Customary Court sitting in Jiwa. The correct position is that we had been before the Honourable Court sitting in Jiwa since 2017 and the trial was already at the cross-examination stage of the Objector by my Counsel before the transfer of entire members of the Panel of that Court. iv. I was informed by my Counsel, Godswill Okorie in his office at 6th Floor, National Merit Award House Aguiyi Ironsi Way, Maitama, at about 12:30p.m on February 24, 2020 and I verily believe him as to the following:-

(a) That following the reconstitution of the Honourable Members of the Court sitting in Jiwa, the Suit No. FCT/CC/JIW/14/2017 commenced de novo (afresh) and that the legal implication is that the

suit was treated as if nothing had happened before; b) that it was in light of the foregoing that he (Godswill Okorie of Counsel) filed a motion on notice on my behalf before the newly constituted Panel to challenge the jurisdiction of the Court to hear the said suit; c) that the said Suit No. FCT/CC/JIW/14/2017 was accordingly struck out for want of jurisdiction by the Honourable Court sitting in Jiwa on August 8, 2019; hence the Court becomes functus officio; d) that it is misleading and untrue for the Objector to say that there is a counter-claim subsisting before the Honourable Court sitting in Jiwa for the facts stated in sub-paragraphs a, b and c above. More so, the Honourable Court sitting in Jiwa, having declined jurisdiction to adjudicate on Suit No. FCT/CC/JIW/14/2017 cannot then assume jurisdiction over the counter-claim which arose as a result of the Objector's complaint, as the said Counter Claim is dependent on the Objector's Substantive Complaint; e) that the Suit No. FCT/CV/31/2019 between the Objector and myself seeking the dissolution of the Igwa traditional marriage celebrated under the native law and customs of Ijaw people of Bayelsa State at the Customary Court sitting in Galadimawa is permissible under the law; f) that there is no abuse of court process and/or multiplicity of actions in this instance as the reliefs sought in Suit No. FCT/CV/GAL/031/2019 (which was instituted before the purported Notice of Appeal, which has not been served on me, was filed) at the Customary Court in Galadimawa and the suit pending before this Court (which was instituted before the said appeal) are not one and the same. A copy of the Complaint filed in Suit No. FCT/CV/GAL/031/2019 is herein attached and marked as Exhibit J1; g) that the Objector via an application he filed on November 4, 2019 raised same objection being raised before this Honourable Court on the similar grounds challenging the jurisdiction of the Customary Court Galadimawa to hear my petition for dissolution of marriage in Suit No.

FCT/CV/GAL/031/2019; h) that on December 10, 2019, in their well-considered ruling, the Customary Court Galadimawa refused the Objector's application and assumed jurisdiction to hear my petition for dissolution of marriage. A certified copy of the said Ruling is herein attached and marked as Exhibit J2; i) that the aforementioned ruling is now subject of another appeal filed by the Objector at the Customary Court of Appeal, Abuja; j) that it is my constitutionally guaranteed right to seek redress in any forum of my choice insofar as such forum is seized of jurisdiction. v. Whilst I have been served with the Notice of Appeal and Brief of Argument in the appeal challenging the Ruling of Customary Court Galadimawa delivered on December 10, 2019; the purported appeal filed by the Objector at the Customary Court of Appeal, Abuja against the decision of the Customary Court Jiwa has not been served on me. 3. Furthermore, I was informed by my Counsel, Godswill Okorie in his office at 6th Floor, National Merit Award House Aguiyi Ironsi Way, Maitama, at about 12:30p.m on February 24, 2020 and I verily believe him as to the following: a) That this Honourable Court has jurisdiction under the law to adjudicate over the issue of custody of my 2 under-aged children who are currently being held solely by the Objector: b) That the issue before this Honourable Court does not border on the dissolution of marriage between me and the Objector. 4. Contrary to the deposition of the objector, I did not at any time or place, within or outside the jurisdiction of this Honourable court engage in any illicit affair with Emeka Njoku or anyone whosoever as alleged by the Objector. 5. More so, it is the Objector who has frustrated any attempt at reconciliation as he has bragged severally that he has the resources to crush me economically and psychologically. The Objector has also boasted that he would frustrate any legal efforts I make to take custody of our children by ensuring that he (the Objector) appeals every ruling/judgment given by any Courts in my favour, no matter

how frivolous the appeals are, to ensure that he has the sole custody of our 2 under-aged children. 6. It is not true that I do not possess the capacity to take care of my children. Rather, it is the Objector who, since he drove me out of our matrimonial home, has been exposing our two children to the unwholesome care of a myriad of strangers with no knowledge of childcare and being used as surrogate parents because the Objector, who is an Information Technology and Security Consultant, is usually away from morning till evening every day, or in some cases, travel for days, due to the nature of his work. I have on many occasions expressed my apprehension, misgiving and dissatisfaction concerning the appropriateness of leaving the care of my children, particularly my six years old daughter, to the care of a male house help, especially with the growing concern of sexual abuse of children by male adults. However, the Objector has continued to spurn my concerns; thereby exposing our children to needless hazard, particularly our girl child. 7. In light of the above, my children are currently suffering from a lack of parental care and this is evident by their recent use of unacceptable and indecent languages and rude behaviour. These are some of the exposures that I have always sought to protect them from and I fear they are now being exposed to this unwholesome environment. 8. Despite my strong belief and conviction that my children should be taught religious values as it is an essential part of their development, the Objector has refrained my children from attending any church in the last two years because he himself claims to be an atheist. It is so bad that whenever I try to get the children to pray before meals during my routine visit to the Objector's residence, he would discourage it and sharply rebuke the children from indulging in such exercise. 9. In all ramifications, I am more capable and better positioned to provide adequate care for our two children, namely: Miss Ego Adaugo Ebu [6 years] and Master Udo David Ebu [4years], who are currently in dire need of motherly care

and affection. The thought of my girl child growing up in the hands of strangers and male house helps is causing me sleepless nights and trauma. 10. What is more, I currently comfortably occupy a two-bedroom flat situate at NEPA Substation, Apo District, FCT, Abuja. Tenancy Agreement dated 25th October, 2017 is herewith attached and marked Exhibit J3. 11. I am a certified chartered accountant and currently in the employment of Alluvial Trade and Development Company, Abuja on a very flexible time schedule which affords me time to take care of my children and attend to other issues. My employment letter is herewith attached and marked as Exhibit J4. 12. To augment my finances, I also run online businesses from home via Logistic Consulting and Online Sales platforms. 13. It is untrue that I am being aided by one Mr. Emeka Njoku as this is mere blackmailing tool by the Objector to continue to embarrass me and portray me in a bad light and as a woman of little virtue so as to deny me the motherly role naturally owe our 2 under-age children. 14. The baseless and spurious Complaint filed against me by the said Emeka Njoku in October 2017 at the Customary Court of FCT sitting in Jiwa by the Objector wherein he falsely alleged me of an adultery was struck out on August 8, 2019. 15. It is in the best interest and wellbeing of Miss Ego Adaugo Ebu [6 years] and Master Udo David Ebu [4 years] that I am granted custody of them, given their ages and the hazard they are currently exposed to, living with the Objector. 16. It will serve the interest of justice if this Honourable Court dismisses the Preliminary objection; and proceeds to hear my application for custody of my children, Miss Ego Adaugo Ebu [6 years old] and Master Udo David Ebu [4 years old], which is a subject matter that is not currently pending in any other court, contrary to what the Objector would have the Court believe.

1. The depositions in the Paragraphs 4, 5, 6, 7, 8, 9, 10 and 11 of the Respondent/Objector's (the Objector) affidavit are incorrect and misleading. The correct facts are as follows:-

i. Suit No. FCT/CC/JIW/14/2017 was instituted sometime in October 2017 by the Objector wherein he sought the following reliefs:-

a) "An order directing the 1st Defendant (i.e. the Applicant/Respondent herein) to bring her relations for a round table traditional settlement of the dispute between 1st Plaintiff (i.e. the Respondent/Objector herein) and the 1st Defendant arising from her illicit affairs with the 2nd Defendant;

b) An order restraining the Defendants from tampering with the children of the union between 1st Plaintiff and 1st Defendant pending the final settlement of the dispute between 1st Plaintiff and 1st Defendant;

c) An order restraining the 2nd Defendant from further interfering in the matrimony between the 1st Plaintiff and 1st Defendant or having anything to do with the 1st Defendant henceforth;

d) An order restraining the Defendant from using the Police or any other means to disturb the Plaintiffs, their homes, school or anything appertaining to Plaintiffs henceforth."

As can be gleaned from the aforementioned reliefs, the reliefs I am seeking in the instant suit are not the same as those sought by the Objector in the said suit. For ease of reference, my reliefs are as follows:

a) "An order of this Honourable Court granting the Applicant the custody of Miss Ego Adaugo Ebu [6 years] and Master Udo David Ebu [4 years], who are currently in the custody of the Respondent:

b) And for such orders or further order(s) that this Court may deem fit in the circumstances." It is not correct that my counter-claim is still subsisting before the Customary Court sitting in Jiwa. The correct position is that we had been before the Honourable Court sitting in Jiwa since 2017 and the trial was already at the cross-examination stage of the Objector by my Counsel before the transfer of entire members of the Panel of that Court.

iv. I was informed by my Counsel, Godswill Okorie in his office at 6th Floor, National Merit Award House Aguiyi Ironsi Way, Maitama, at about 12:30p.m on February 24, 2020 and I verily believe him as to the following:

a) That following the reconstitution of the Honourable Members of the Court sitting in Jiwa, the Suit No. FCT/CC/JIW/14/2017 commenced de novo (afresh) and that the legal implication is that the suit was treated as if nothing had happened before;

b) That it was in light of the foregoing that he (Godswill Okorie of counsel) filed a motion on notice on my behalf before the newly constituted Panel to challenge the jurisdiction of the Court to hear the said suit;

c) That the said Suit No. FCT/CC/JIW/14/2017 was accordingly struck out for want of jurisdiction by the Honourable Court sitting in Jiwa on August 8, 2019; hence the Court becomes functus officio;

d) That it is misleading and untrue for the Objector to say that there is a counter-claim subsisting before the Honourable Court sitting in Jiwa for the facts stated in sub-paragraphs a, b and c above. More so, the

Honourable Court sitting in Jiwa, having declined jurisdiction to adjudicate on Suit No. FCT/CC/JIW/14/2017 cannot then assume

jurisdiction over the counter-claim which arose as a result of the Objector's complaint, as the said Counter Claim is dependent on the Objector's Substantive Complaint;

e) That the Suit No. FCT/CV/31/2019 between the Objector and myself seeking the dissolution of the Igwa traditional marriage celebrated under the native law and customs of Ijaw people of Bayelsa State at the Customary Court sitting in Galadimawa is permissible under the law;

f) That there is no abuse of court process and/or multiplicity of actions in this instance as the reliefs sought in Suit No. FCT/CV/GAL/031/2019 (which was instituted before the purported Notice of Appeal, which has not been served on me, was filed) at the Customary Court in Galadimawa and the suit pending before this Court (which was instituted before the said appeal) are not one and the same. A copy of the Complaint filed in Suit No. FCT/CV/GAL/031/2019 is herein attached and marked as Exhibit J1; g) that the Objector via an application he filed on November 4, 2019 raised same objection being raised before this Honourable Court on the similar grounds challenging the jurisdiction of the Customary O Court Galadimawa to hear my petition for dissolution of marriage in Suit No. FCT/CV/GAL/031/2019; h) that on December 10, 2019, in their well-considered ruling, the Customary Court Galadimawa refused the Objector's application and assumed jurisdiction to hear my petition for dissolution of marriage. A certified copy of the said Ruling is herein attached and marked as Exhibit J2; i) that the aforementioned ruling is now subject of another appeal filed by the Objector at the Customary Court of Appeal, Abuja; j) that it is my constitutionally guaranteed right to seek redress in any forum of my choice insofar as such forum is seized of jurisdiction.

v. Whilst I have been served with the Notice of Appeal and Brief of Argument in the appeal challenging the Ruling of Customary Court Galadimawa delivered on December 10, 2019; the purported appeal filed by the Objector at the Customary Court of Appeal, Abuja against the decision of the Customary Court Jiwa has not been served on me.

3. Furthermore, I was informed by my Counsel, Godswill Okorie in his office at 6th Floor, National Merit Award House Aguiyi Ironsi Way, Maitama, at about 12:30p.m on February 24, 2020 and I verily believe him as to the following:

a) That this Honourable Court has jurisdiction under the law to adjudicate over the issue of custody of my 2 under-aged children who are currently being held solely by the Objector:

b) That the issue before this Honourable Court does not border on the dissolution of marriage between me and the Objector. 4. Contrary to the deposition of the objector, I did not at any time or place, within or outside the jurisdiction of this Honourable court engage in any illicit affair with Emeka Njoku or anyone whosoever as alleged by the Objector.

5. More so, it is the Objector who has frustrated any attempt at reconciliation as he has bragged severally that he has the resources to crush me economically and psychologically. The Objector has also boasted that he would frustrate any legal efforts I make to take custody of our children by ensuring that he (the Objector) appeals every ruling/judgment given by any Courts in my favour, no matter how frivolous the appeals are, to ensure he has the sole custody of our 2 under-aged children. 6. It is not true that I do not possess the capacity to take care of my children. Rather, it is the Objector who, since he drove me out of our matrimonial home, has been exposing our two children to the unwholesome care of a myriad of strangers

with no knowledge of childcare and being used as surrogate parents because the Objector, who is an Information Technology and Security Consultant, is usually away from morning till evening every day, or in some cases, travel for days, due to the nature of his work. I have on many occasions expressed my apprehension, misgiving and dissatisfaction concerning the appropriateness of leaving the care of my children, particularly my six years old daughter, to the care of a male house help, especially with the growing concern of sexual abuse of children by male adults. However, the Objector has continued to spurn my concerns; thereby exposing our children to needless hazard, particularly our girl child.

7. In light of the above, my children are currently suffering from a lack of parental care and this is evident by their recent use of unacceptable and indecent languages and rude behaviour. These are some of the exposures that I have always sought to protect them from and I fear they are now being exposed to this unwholesome environment.

8. Despite my strong belief and conviction that my children should be taught religious values as it is an essential part of their development, the Objector has refrained my children from attending any church in the last two years because he himself claims to be an atheist. It is so bad that whenever I try to get the children to pray before meals during my routine visit to the Objector's residence, he would discourage it and sharply rebuke the children from indulging in such exercise.

9. In all ramifications, I am more capable and better positioned to provide adequate care for our two children, namely: Miss Ego Adaugo Ebu [6 years] and Master Udo David Ebu [4years], who are currently in dire need of motherly care and affection. The thought of my girl

child growing up in the hands of strangers and male house helps is causing me sleepless nights and trauma.

10. What is more, I currently comfortably occupy a two-bedroom flat situate at NEPA Substation, Apo District, FCT, Abuja. Tenancy Agreement dated 25th October, 2017 is herewith attached and marked Exhibit J3.

11.I am a certified chartered accountant and currently in the employment of Alluvial Trade and Development Company, Abuja on a very flexible time schedule which affords me time to take care of my children and attend to other issues. My employment letter is herewith attached and marked as Exhibit J4.

12. To augment my finances, I also run online businesses from home via Logistic Consulting and Online Sales platforms.

13.It is untrue that I am being aided by one Mr. Emeka Njoku as this is mere blackmailing tool by the Objector to continue to embarrass me and portray me in a bad light and as a woman of little virtue so as to deny me the motherly role naturally owe our 2 under-age children.

14. The baseless and spurious Complaint filed against me and the said Emeka Njoku in October 2017 at the Customary Court of FCT sitting in Jiwa by the Objector wherein he falsely alleged me of an adultery was struck out on August 8, 2019.

15.It is in the best interest and wellbeing of Miss Ego Adaugo Ebu [6 years] and Master Udo David Ebu [4 years] that I am granted custody of them, given their ages and the hazard they are currently exposed to, living with the Objector.

16. It will serve the interest of justice if this Honourable Court dismisses the Preliminary objection; and proceeds to hear my

application for custody of my children, Miss Ego Adaugo Ebu [6 years old] and Master Udo David Ebu [4 years old], which is a subject matter that is not currently pending in any other court, contrary to what the Objector would have the Court believe.

Attached to the counter affidavit is:-

1. Exhibit J1 is the complaint
2. Exhibit J2 is the ruling dated 10th December, 2019
3. Exhibit J3 is the tenancy Agreement between Chief Frank Umeh and Mrs. Jessica Ebu

The Respondent also filed a further affidavit in support of the preliminary objection and the further affidavit has 28 paragraph affidavit. Attached to the further affidavit are exhibit marked as:-

1. exhibit AAA ruling
2. Exhibit BBB is the notice of appeal
3. Exhibit CCC picture of the Applicant
4. Exhibit DDD screen shot of call logs between Ugochukwu Ebu and Jessica Ebu
5. Exhibit FFF1 Comprehensive Whiteplans British School
6. Exhibit GGG print out of whatapp of Jessica

In compliance the Applicant filed a written address dated 3rd March, 2020 where he raised four issues for determination:-

1. Whether given the issues involved in this matter, this Court being approached as a family Court pursuant to the child Rights Act 2003 is the right Court to seek the reliefs now being sought, assuming

but not conceding that this Court has the jurisdiction to entertain the matter?

2. Whether the counter claim of Applicants terminates with the decision of the Jiwa Customary Court declining jurisdiction on the Claim of Defendant at that Court such that Applicant can re-litigate same subject matter in another Court notwithstanding the fact that the decision of the Jiwa Customary Court is now pending appeal.
3. Whether or not Applicant multiplying actions and issues arising from the same subject matter and against the same party in different Courts and for a concurrently and does not ipso facto amount to abuse of the processes of these Courts such that this Court is under a duty to abate this suit in –limine.
4. Whether sentiments can aid the Applicant to navigate the judicial concourse to enact reliefs sought for in her favour.

Having reproduced the position of both side in this ruling. I have considered also the issues raised by the Applicant in their final written address. I am of the view that the application brought before the Court is an abuse of judicial process. The Respondent have filed similar application before the Court. More importantly the marriage was conducted under the native law and custom of the parties. In that respect issues of any nature should only be dealt with at the customary law, + what determine jurisdiction of the Court is its power to try a case brought before the Court based on fulfillment of all conditions stipulated as provided in the case of **MADULU VS ENKEMDILIM**. I have looked at the application filed by the Applicant more particularly the affidavit in support of the matter and the further and better affidavit also the annexures attached to the said motion. I equally looked at the counter affidavit filed by the respondent in this respect and the attached exhibits I am of the strong view that it is better for

the Respondent to pursue her case before the appropriate Court. Without delving into the main issue I would like to state that this Court is governed by the Matrimonial Causes Act and Matrimonial Cause Rule unless and until all the institution of the case is brought under the above law and rules this Court lacks the capacity to entertain same. Issue of jurisdiction is fundamental in our judicial system. The case of the Applicant/Respondent in this case is a clear case of abuse of judicial process. The Applicant has made similar application before Jiwa Customary Court. In ***AJONDI VS YA ADUA & ANOR (1991) 5 NWLR (pt 191) 257.***

That where a Court has no jurisdiction in respect to a matter before it, the judicial basis for the exercise of power with respect to such matter is also absent this is because power can only be exercised when the Court has the jurisdiction to do so. I therefore struck out this suit for want of jurisdiction.

**HON. JUSTICE M.S IDRIS
(PRESIDING JUDGE)**

Appearance

Grace A. Ikudaisi:- Appearing with Victor Ola—for the Claimant

M.A. Ofeoshi:- For the Respondent.