

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

BEFORE HIS LORDSHIP: HON. JUSTICE. H. MU’AZU

SUIT NO: FCT/HC/PET/256/2024

DELIVERED ON THE 28/06/2024

BETWEEN:

EYAKENOABASI BOB-HASSAN.....PETITIONER

AND

OLAKUNLE RILWAN HASSAN.....RESPONDENT

JUDGMENT

This is a petition for a decree of judicial dissolution of marriage filed by EYAKENOABASI BOB-HASSAN praying this Honourable Court for the following reliefs as set out in the petition to wit:

- (a) A Decree of dissolution of marriage on the ground that the marriage has broken down irretrievably in that sense the Respondent has behaved in such a way that the petitioner cannot reasonably be expected to live with Respondent.

This petition is predicated upon 4 grounds to wit:

- a. The Respondent's marriage to his wife Akinniyi Mariam Ajoke is still valid and subsisting.
- b. The Respondent contracted a lawful marriage with Akinniyi Mariam Ajoke on the 27th day of December, 2018. The certificate of the said marriage is hereby pleaded and all documents relating thereto.
- c. The said marriage has not been dissolved and no petition for nullity thereof has been instituted till date.
- d. Section 3(1) of the Matrimonial Causes Act provides:
“Subject to the provision of this section a marriage that takes place after the commencement of this Act is VOID in any of the following cases but not otherwise, that is to say where either of the parties is, at the time of the marriage, lawfully married to some other person”

The petition along with other processes were served on the Respondent outside Jurisdiction of this Honourable Court in Lagos State of Nigeria at House No. 15 Toyosi Adetoro Street, Chevy View Estate, Lekki, Lagos State

Via the Order of this Court granted on the 27th February, 2024. The Respondent did not file any answer to the petition even though he represented by a counsel.

The petitioner was the sole witness who testified as PW1. She gave her testimony, 2 Exhibits were tendered and Marked Exhibit P1 and P2. They are the marriage certificate between the petitioner & Respondent and certificate between Respondent and his wife Akinniye Mariam Ajoke which were not objected. She was not Cross-Examined by the Respondent's Counsel. The petition then proceeded as an uncontested action.

She testified on the date of the hearing that she is the wife of the Respondent, marriage conducted on the 20th May, 2022 at Marriage Registry, Uyo, Akwa Ibom State.

That the Respondent's marriage to his wife Akinniye Mariam Ajoke is still valid and subsisting.

That the Respondent contracted a lawful marriage with the Akinniye Mariam Ajoke on the 27th day of December,

2018 that same has not been dissolved and no petition for Nullity thereof has been instituted till date.

That the petitioner and the Respondent lived together in House No. 15 Toyose Street, Chevy view Estate, Lekki, Lagos State before the petitioner vacated the matrimonial Home to Ewet Housing Estate, Uyo Akwa Ibom State.

The law is trite that a person who has to defend an action but refused to do so can be concluded to have admitted the positions of the adverse party and a fact admitted need no further proof the implication of this is that the court will deem the unchallenged and uncontroverted evidence of the petitioner as true correct and Act on it. See the case of *CBN V. IGWILO (2007) 14 NWLR (Pt. 1054) 393 (a) 406*.

The Matrimonial Causes Act has in section 3 provides guide for dissolution of marriage based on the ground mention in section 3(1) of the Matrimonial Causes Act.

From all the facts adduced aided by the Exhibits tendered, I must hold that the petitioner has proved her case to the

satisfaction of this Court. Accordingly, I find that the marriage was void abinitio and Judgment is hereby entered in favour of the Petitioner.

In the light of my finding and in respect thereof this marriage contracted on the 20th of May, 2022 is hereby nullified.

Accordingly, I hereby order Decree Nisi which shall become absolute by operation of the law 3 Months from the date of this Judgment.

SIGNED:
HON. JUDGE
28/06/2023.

Appearance:

*Samuel Ikpo, Esq, with Ikechukwu Maduikwe, Esq, for the petitioner
Nwachukwu Obinna, Esq, holding the brief of C. O. Joseph SAN*