

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY ABUJA  
IN THE GWAGWALADA JUDICIAL DIVISION  
HOLDEN AT COURT NO.12 GWAGWALADA  
BEFORE HIS LORDSHIP: HON JUSTICE A. S. ADEPOJU  
THIS 18<sup>TH</sup> DAY OF JULY, 2024

SUIT NO: FCT/HC/PET/119/2018

BETWEEN:

ADEBANKE OLUWABUKUMI OJO ..... PETITIONER

AND

AMOS AYOOLA OJO .....RESPONDENT

*HAJARAT GBOLAGADE for the Petitioner.*

*Petitioner is in Court.*

**JUDGEMENT**

The Petitioner sought for the dissolution of her marriage with the Respondent on the ground that the marriage has broken down irretrievably. The Petitioner then a Spinster was lawfully married to the Respondent, then a bachelor at the Marriage Registry, Ibadan Road, Ile-Ife on the 24<sup>th</sup> April 2010 at the **C & S Miracle Garden, Oranfe, Ile-Ife** on 24<sup>th</sup> April, 2024 according to the Christian rites.

The other facts that constitute the grounds for dissolution of the marriage as stated in the petition are:

1. That in the cause of the marriage, the Respondent has become unbearably quarrelsome, boisterous, cantankerous, adulterous and have been beating the Petitioner that the Petitioner finds it intolerable to live with him.
2. That the Respondent is said to be stubborn, heady and an embodiment of violence who insults the Petitioner and her family at will.

The Petitioner in Proof of her case adopted her witness statement on oath and tendered the marriage certificate as exhibit A1. The Respondent was not in court, neither did he file any reply to the Petitioner's dispute being duly served with the petition together with the hearing notice. The Notice of Petition was served outside jurisdiction of this court vide an order for substituted service by pasting at the last known address of the Respondent at **No. 10 Woleola Estate, Ogo-Oluwa Road, Osogbo, Osun State**. The affidavit of service by the Bailiff of this Court, and the Bailiff of the High Court of Justice, Osun State whom the processes were served, form part of the record of this Court. There is also a picture evidence of the pasting of the processes at the above named address of the Respondent.

The Counsel for the Petitioner sought and obtained an order for foreclosure of the Respondent from defending the Petition and cross-

examining the Petitioner. The petition remains undisputed and shall be determined based on the testimony of the Petitioner solely. The Petitioner's Counsel in her written address dated 11<sup>th</sup> July 2024 formulated two issues for determination to wit:

- 1. Whether her favour the Petitioner has established her case to get the judgment of this court in.*
- 2. Whether the Petitioner is entitled to an order for the dissolution of the marriage in the absence of the Respondent.*

On Issue 1 the Learned Counsel submitted that the Petitioner has established her case to the effect that the marriage has broken down irretrievably. She relied on the provision of Section 15(2) of the Matrimonial Causes Act, particularly paragraph e & d respectively;

***“The court hearing a petition for a decree for dissolution of marriage shall hold the marriage to have broken down irretrievably if, but only if, the Petitioner satisfies the court of one or more of the following facts;***

- (e) That the parties to the marriage have lived apart for a continuous period of at least two years immediately preceding the presentation of the petition and the Respondent does not object to a decree being granted.***

***(f) That the parties to the marriage; have lived apart for a continuous period of at least three years immediately preceding the presentation of the petition.”***

The Counsel referred to the testimony of the Petitioner that she and the Respondent have lived apart since 20<sup>th</sup> June, 2014 due to the cantankerous nature of the Respondent leading to both physical and emotional abuse of the Petitioner, and leading to her desertion of the matrimonial home. The Counsel urged the court to hold that the Petitioner has been able to establish the ground in section 15 (2) (e) and (f). The learned counsel further submitted that the Petitioner has neither condoned nor connived at the conduct of the Respondent constituting the facts on which this Petition is based and she is also not guilty of any collusion that intend to cause perversion of justice.

I endorse the submission of the Petitioner’s Counsel that Section 15 (2) (e) and (f) was established by the Petitioner to the satisfaction of this Court, and I so hold.

Issue two is whether the Petitioner is entitled to an order for the dissolution of the marriage in the absence of the Respondent. As observed earlier, the Respondent was duly served with the petition and hearing notices in respect of the pendency of this petition and has chosen not to defend it. Where a Defendant or Respondent fails to

respond to a divorce petition, after being duly served, he is deemed to have accepted all the facts contained in the petition. The Respondent was given the opportunity to defend the petition by filing an answer/cross petition and cannot complain of lack of fair hearing. I agree with the submission of Learned Counsel to the Petitioner that the Respondent having chosen not to appear to defend the petition upon the service of the petition on him, does not object to the dissolution of the marriage between the Petitioner and him.

The Petitioner have testified that they have lived apart for 10 years, I therefore have no hesitation to hold that the marriage have broken down irretrievably on the grounds stated by the Petitioner in the petition and in accordance with Section 15 (2) (e) – (f) of the Matrimonial Causes Act. Consequently, I hereby dissolve the marriage conducted between the parties on the 24<sup>th</sup> day of April, 2014.

**SIGN**

**HON JUDGE  
18/7/2024**