

**IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY**  
**IN THE ABUJA JUDICIAL DIVISION**  
**HOLDEN AT GUDU - ABUJA**  
**ON TUESDAY THE 13<sup>TH</sup> DAY OF JULY, 2021.**  
**BEFORE HIS LORDSHIP ; HON. JUSTICE MODUPE OSHO -ADEBIYI**  
**SUIT NO: FCT /HC/M/171/2021**

**MR. EJIMOFOR AGBO ----- APPLICANT**

**AND**

**MRS. CHILEE ADOBI AGBO -----RESPONDENT**

**RULING**

By a motion exparte with motion number M/1714/2021 dated and filed on the 12<sup>th</sup> day of January 2021, brought pursuant to Sections 10, 89 & 93 of the Matrimonial Causes Act LFN 2004, Section 69 of the Child's Right Act 2003, Order XVII Parts 5 Rule 20 & 6 Rule 26(2) of the Matrimonial Causes Rules 1983 and Order 43 Rule 1 of the FCT High Court Civil Procedure Rules 2018 and under the inherent jurisdiction of this Court. It is seeking an Order;

1. An order that the Orders made by the Honourable Justice M. O. Obadina of the High Court of Lagos State on 14<sup>th</sup> December, 2020 in Suit No. LD/6604HD/2020 which pertain to access and custody of a child be registered and executed as the orders of this Honourable Court forthwith
2. And for such further or other orders as this Honourable Court may deem fit to make in the circumstance.

The Motion is supported by a 6 paragraph affidavit in support deposed to by Atukum Caleb the litigation clerk in the law firm of Aarndale

Solicitors (“the firm”), counsel to the Applicant, 3 exhibits attached marked Exhibit Agbo 1, 2 & 3 and a written address. Applicant also filed an 8 paragraph further affidavit in support of the Motion Exparte. The summary of the affidavits of the Applicant is as follows; that sequel to the instruction of the Applicant the firm filed on behalf of the Applicant an Originating Motion in Suit No. LD/6604HD/2020 before the High Court of Lagos State seeking access and joint custody of the Child of Applicant’s marriage with the Respondent. That the Hon. Justice M. O. Obadina did order on the interim on the 14<sup>th</sup> of December, 2020 that the Respondent grant access to the Applicant to see and bond with the Child of the marriage once every fortnight at a public place to be mutually agreed by the parties starting from 20<sup>th</sup> of December, 2020. That the Lagos State High Court same day also ordered that the Respondent produce the child to the Family Court in Lagos on the 25<sup>th</sup> day of January, 2021 at 11am. That the enrolled order of court could not be served on the Respondent as she eloped from Lagos State and failed to comply with the orders of court. Hence the Applicant is therefore constrained to seek the leave of this court for enforcements steps as the Respondent has relocated to Abuja and is now domiciled within the jurisdiction of this Honourable Court. That the firm wrote to the Chief Registrar of this Honourable Court seeking registration of the aforementioned Lagos State High Court Orders but was advised by the Process Registry on the Chief Registrar directives that a formal judicial application be filed by the Applicant should the Applicant desire the registration. That it is required that the orders be registered in the high

court of the Federal Capital Territory, where the Respondent is now resident to enable the Applicant enforce the orders of the Lagos High Court. That sequel to the interim order of the Lagos High Court made 14<sup>th</sup> December, 2020, the court proceeded to hear the Originating Motion and on the 3<sup>rd</sup> of February ruled on the Originating Motion and granted the prayers of the Applicant, specifically, the Court directed that the Respondent produce the child of the marriage between her and the Applicant and also granted the Applicant unhindered access and joint custody of the child of the marriage. That it is required that the final judgment be registered in the stead of the earlier interim orders of the Lagos High Court by the High Court of the Federal Capital Territory where the Respondent is now resident to enable the Applicant enforce the orders of the Lagos High Court.

The Applicant raised a sole issue for determination in their written address, which is;

“Whether in the circumstance of this case, the Applicant is entitled to the discretion of this Honourable Court in its favour, to wit, granting the relief sought by the Applicant in the instant application”.

Summarily, learned counsel submitted that the Applicant is entitled to the discretion of this Honourable Court in its favour, to wit, granting the relief sought by the Applicant in the instant application. Counsel submitted that by the provision of Section 89 of the Matrimonial Causes Act LFN 2004 this Court, the High Court of the Federal Capital Territory being a Court having jurisdiction under the Act may register a decree

made under the Act by a Court having jurisdiction under the Act provided it is in accordance with the rules of Court. Counsel further submitted that the trite maxim of Ubi Jus Ubi remedium is further reason that this Court ought to grant the application in the circumstance of this suit. Finally counsel submitted that only a registration of the orders of the Lagos State High Court would provide a form of remedy as it could serve as the basis for enforcement proceedings thereon. He urged the court to exercise its discretion in favour of the Applicant and grant this application as prayed. He cited the following authorities;

- i. Section 2 (1) (a) & (b) of the Matrimonial Causes Act.**
- ii. Order XVII Parts 5 Rule 20 (1) (2) (a) & (b) of the Matrimonial Causes Rules 1983.**
- iii. Order XVII Parts 6 Rule 26 (2) (1), (2) & (3) of the Matrimonial Causes Rules 1983**
- iv. Section 10 of the Matrimonial Causes Act.**
- v. NIG. GEN. INS. V. BELLO (1994) 1 NWLR (Pt. 319) 207 at 217.**
- vi. OJUKWU V. OBASANJO (2004) 12 NWLR 169 at 226.**

I have carefully read and digested all processes filed by the Applicant in this suit. By the further affidavit deposed to by Tawose Michael Aduragbemi the litigation clerk with the law firm of Aarndale Solicitors (“the firm”) Solicitors’ to the Applicant with Ruling annexed, what the Applicant is finally seeking is for the execution of the Order of Court made in respect of the Originating Motion in Suit No. LD/6604HD/2020 delivered 3<sup>rd</sup> February, 2021 by the Lagos State High Court to wit;

1. An order directing the Respondent to produce the child of the marriage between her and the Applicant Nathan Agbo (1 year old) whom prior to and since his birth the Respondent has absconded with and has failed, refused and/or neglected to allow the Applicant access to him.
2. An order granting unhindered access and joint custody of the child of the Marriage- Nathan Agbo to the Applicant and that all decisions pertaining to the welfare, education and advancement of the child shall be taken jointly by the parties.

By virtue of **Section 287 of the 1999 Constitution of the Federal Republic of Nigeria (as amended)** the decisions of all the superior courts of records shall be enforced in any part of the federation by all authorities and persons, that is to say that a Judgment may be given in one state but will be executed in another state either because the Judgment debtor resides there or has property there.

**Section 89 of the MATRIMONIAL CAUSES ACT 1970** provides as follows;

89. (1) A decree made under this Act by a court having jurisdiction under this Act may, in accordance with rules of court, be registered in another court having jurisdiction under this Act.
- (2) A decree registered in a court under this section may, subject to rules of court, be enforced as if it had been made by the court in which it is registered.

(3) A reference in this Part of the Act to the court by which a decree was made shall be construed as including a reference to a court in which the decree is registered under this section.

From the above stated provision it is not in dispute that an Order (a decree) made under the Matrimonial Causes Act by a court having jurisdiction may, in accordance with rules of court, be registered in another court having jurisdiction under the Matrimonial Causes Act. Note be taken to the phrase "subject to rules of court". Enforcement of Judgment in this Honourable Court is guided by the **Sheriffs and Civil Process Act 1945** and **Sections 104 -110** is instructive on this. Particularly **Section 105** which provides as follows;

**105.** (1) Upon production of such certificate to the registrar or other proper officer of any court of like jurisdiction in any other State or the Capital Territory such officer shall forthwith register the same by entering the particulars thereof in a book to be kept by such officer and to be called "The Nigeria Register of Judgment". [L.N. 47 of 1955.]

(2) From the date of registration the certificate shall be a record of the court in which it is registered, and shall have the same force and effect in all respects as a judgment of that court, and the like proceedings may be taken upon the certificate as if the judgment had been a judgment of that court.

(3) For the purpose of this section-

- (a) the High Courts (including any court deemed to be a High Court) of the several States and the Capital Territory are courts of like jurisdiction to one another;
- (b) the magistrates' courts exercising jurisdiction in the several States and the Capital Territory are of like jurisdiction to one another.

It follows therefore that what the Applicant (Judgment Creditor) ought to have done is to;

- a. Obtain the certificate of the Judgment from the Registrar of the Court that delivered the Judgment, signed and sealed by the Registrar, **Section 104 Sheriffs and Civil Process Act.**
- b. Then take the Certificate of Judgment to the enforcing state and register it with the Registrar of a court of similar jurisdiction in that state which shall be the enforcing court. Then the Registrar of the enforcing court registers it by entering the particulars in “The Nigeria Register of Judgment” as provided for in **S. 105 of the Sheriffs and Civil Process Act.**
- c. Upon registration, the court can deal with the Judgment as if it were its own judgment, **S. 108 of the Sheriffs and Civil Process Act.**
- d. The Judgment Creditor must depose to an affidavit stating amongst others that the act ordered to be done remains undone, **S. 107 of the Sheriffs and Civil Process Act.**
- e. Then the Judgment creditor then applies for the appropriate execution process and it is executed.

f. Finally, after the execution the Registrar of the enforcing Court shall notify the Registrar of the court that delivered the Judgment in writing under the seal of the court that the Judgment has been satisfied in whole or part, **S. 110 of the Sheriffs and Civil Process Act.**

Claimant in paragraph 3 (5) of accompanying affidavit has deposed that the process Registry of the FCT High Court advised on the Chief Registrar's directives that a formal judicial application be filed by the Applicant should the Applicant desire the registration. This approach by the registry is a wrong procedure as it contrary to the laid down procedure as spelt out in the Sheriff and Civil Process Act. Be that as it may, it is hereby ordered as follows: -

That orders made by the Hon. Justice M. O. Obadina of the High Court of Lagos State on 14<sup>th</sup> December, 2020 in Suit No: LD/6604HD/2020 which pertain to access and custody of a child be registered and executed as the orders of this Honourable Court foryhwith.

**Parties:** Absent

**Appearances:** Bekky Ozioma Dike for the Applicant. Respondent is not represented.

**HON. JUSTICE M. OSHO-ADEBIYI**

**JUDGE**

**13TH JULY, 2021**