

**IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY**  
**IN THE ABUJA JUDICIAL DIVISION**  
**HOLDEN AT MAITAMA ON THE 20<sup>TH</sup> DAY OF JANUARY, 2022**  
**BEFORE HIS LORDSHIP, HON. JUSTICE U. P. KEKEMEKE**  
**SUIT NO.FCT/HC/PET/301/19**

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

**BETWEEN:**

**HELEN ONYINYECHUKWU ONYECHERE.....PETITIONER**

**AND**

**ANSALEM UGOCHUKWU ONYECHERE.....RESPONDENT**

**RULING**

The Petitioner's Notice of Petition is dated the 24/06/19. It was served on the Respondent on the 27/01/20. The Respondent in response filed an answer under protest dated 8/06/2020. The Petitioner filed a reply to the Respondent's answer under protest on 27/11/2020. The above processes are the pleadings upon which the divorce petition is based.

Learned Counsel to the Respondent relies on his 35 paragraph affidavit. He deposes amongst others that he performed traditional marriage introduction rites with the Respondent in January 2013.

In preparation for their Church wedding, they enrolled for a three months mandatory marriage course at Christ the King (CKC) Catholic Church, Kubwa. The said wedding celebration was later transferred to Our Lady of Fatima Catholic Church, Woliwo Onitsha, Anambra State. That they were joined in holy matrimony in a Christian wedding celebrated at our Lady of Fatima Catholic Church, Woliwo Onitsha, Anambra on the 30<sup>th</sup> day of December 2013. A photocopy of the certificate is attached as Exhibit A.

Thereafter they proceeded to Ogbakuba Village, the Petitioner's hometown for the traditional wedding in her father's compound. They travelled back to Abuja where they continued to live happily together with his three children.

That on 12/11/15, the Petitioner without any just cause filed a Petition in the High Court of the FCT for dissolution of marriage. That he did not contract any marriage with the Petitioner at the Marriage Registry Ikoyi, Lagos in 2012 or any other date. That upon raising a Preliminary Objection to the Petition, the suit was struck out. The ruling is Exhibit B. No appeal was filed against the ruling dated 21/03/18. That his marriage to the Petitioner is not duly entered into any marriage register. That prior to their wedding on 30/12/13 at our Lady of Fatima Catholic Church, they never filed, gave or delivered any notice as prescribed in Form A to any marriage registrar. They

never sworn to an Affidavit declaring their intention to marry. That their marriage is not statutory.

The Petitioner/Respondent relied on Counter Affidavit dated and filed on 27/11/2020. He contends that the Petitioner and Respondent are lawfully married at our Lady of Fatima Catholic Church, Woliwo, Onitsha in Anambra State. Exhibit A is the marriage certificate. That the earlier suit was struck out and not dismissed. That Petitioner did not wait for two years before instituting the said suit.

The marriage certificate used in instituting the case which was obtained at Ikeja Marriage Registry turned out to be fake. That the earlier Petition was struck out on the above two grounds. That the Respondent connived with some agents to forge the marriage certificate without going through the full marriage rite. The said forged marriage certificate is Exhibit B.

I have also considered the Written Address of Counsel. The simple question for determination is whether this suit is competent before this Court. The Notice of Petition is filed as Petition No. PET/301/19.

By Order V of the Matrimonial Causes Act, a Petitioner shall state the full name of each of the parties to the proceedings, address and

occupation of Petitioner etc. The Petitioner shall also state particulars of the marriage or purported marriage to which the petition relates, particulars relating to the birth of the parties to the marriage. Particulars relating to children of the parties to the marriage and children of either party to the marriage. The facts but not the evidence by which the facts are to be proved. The particulars of the marriage or purported marriage that are required to be stated are:

- (1) The place and date on which the marriage or purported marriage was solemnised.
- (2) The nature of the ceremony by virtue of which the marriage or purported marriage was solemnised.
- (3) Conjugal status of the Petitioner and Respondent respectively immediately before the solemnisation of the marriage or purported marriage.
- (4) Domicile or residence
- (5) Particulars of cohabitation
- (6) Particulars of children
- (7) Previous proceedings.
- (8) Condonation, Connivance and Collusion
- (9) Particulars of order sought

The Petitioner shall by Affidavit sworn to verify the facts stated. The grounds and facts in support.

Arrangement for welfare of children etc.

I have carefully read the Petition. It contains amongst others the particulars of the marriage. Attached to the Petition is a certificate evidencing the marriage or purported marriage.

In my humble view the Petition satisfies Order V of the Matrimonial Causes Act. It is the duty of the Petitioner to prove the case. The Respondent stated that he did not contract any statutory marriage with the Petitioner. It is his defence. He has the opportunity to canvass same in his defence.

Learned Counsel to the Respondent/Applicant also relied on a ruling of this Court by Venda J. dismissing the suit. The said ruling is not availed the Court. The authenticity of the marriage certificate is also a matter of evidence. The Court cannot at this stage determine whether the marriage between the petitioner and the Respondent is a statutory marriage or not unless some evidence is led.

In totality, it is my view and I so hold that this Court has jurisdiction to entertain this case and I so hold. This application lacks merit, premature and it is accordingly dismissed.

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**HON. JUSTICE U.P. KEKEMEKE**  
**(HON. JUDGE)**  
**20/20/22**

