

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT NYANYA
ON 14TH JULY, 2022
BEFORE HIS LORDSHIP: HON. JUSTICE EDWARD OKPE

SUIT NO. FCT/HC/M/076/2022
MOTION NO: M/7703/22

BETWEEN:

- 1. IFEOMA OBALUM**
- 2. CHUKWUEMEKA OBALUM APPLICANTS**

AND

DIKE CHIJIJOKE OBALUM RESPONDENT

JUDGMENT

By an Amended Application for Protection Order filed on 5/4/22 Pursuant to Sections 27, 28, 31 and 33 of the Violence against Persons (Prohibition) Act 2015 and Order 33(1) of the High Court of the Federal Capital Territory (Civil Procedure) Rules 2018 and under the inherent jurisdiction of this Honourable Court. The Applicants herein prays this honourable court for the following orders:

- 1. AN ORDER FOR PROTECTION** of the Applicants from the Respondent.
- 2. AN ORDER FOR PROTECTION** of this Honourable court restraining the Respondent from having access to the Applicants, or committing any further act of domestic violence, or enlisting the help of any person to commit such act against the Applicants.
- 3. AN ORDER OF PROTECTION** of Honourable Court prohibiting the respondent from entering the residence and place of study of the Applicants.

4. **AN ORDER** of this Honourable court authorizing the issuance of a warrant of arrest of the respondent to be executed upon violation of the protection order of this Honourable Court.
5. **AN ORDER** directing the respondent to submit the International Passports, WAEC and NECO Certificates belonging to the Applicants to this Honourable Court.
6. **AN ORDER** of this Honourable Court granting legal and physical custody of the 2nd Applicant to the 1st Applicant.

AND FOR SUCH FURTHER ORDER(S) as this Honourable Court may deem fit to make in the circumstances.

On the face of the Substantive Motion are 3 grounds, the basis upon which this application was filed.

The substantive motion is supported by 54 paragraphs affidavit deposed to by Ifeoma Obalum, the 1st Applicant and the biological sister of Chukwuemeka Obalum - the 2nd Applicant in this suit. Exhibit 'A' - 'F' are attached to the affidavit. Also filed alongside is a written Address which the counsel to the applicants adopted during the hearing in urging the court to grant the protection orders sought.

The respondent did not deem it fit to file a counter affidavit to the substantive motion instead his counsel made oral submissions in opposition to the Applicant's motion and urged that he be allowed to use the affidavit in support of his motion No: M/7703/22 to be his counter affidavit to the Applicants substantive Motion.

By a Motion on Notice filed on 9/6/2022 Pursuant to Order 43 Rule 1 of The High Court of the FCT (Civil Procedure) Rules, 2018 and under the inherent Jurisdiction of this Honourable Court wherein the Applicants seeks from the court this sole relief:

AN ORDER setting aside the orders of this court granted on Motion No: FCT/HC/M/4199/2022 on 7th April, 2022 on the ground that this court lacks jurisdiction to determine this suit and or give any order or orders herein.

On the face of the Motion are 8 grounds which are the basis upon which the applicant brought this objection.

The motion is supported by 6 paragraphs affidavit deposed to by one Esther Adebayor, a Litigation Secretary in the firm of legal practitioners acting for the respondent in this suit. Exhibit 'A' is attached to the affidavit. Also filed alongside is a written Address which the counsel to the applicant adopted during the hearing in urging the court to grant his application as prayed.

In opposition to this Motion, the Applicants filed a counter affidavit of 8 paragraphs on 16/6/2022 deposed to by one Francisca Nkemakolam, a Litigation Secretary in the law firm of Punuka Attorneys & Solicitors, a firm of legal practitioners acting for the Applicants. Attached to this counter affidavit are Exhibits 'A1', 'A2' and 'B'. A written address was also filed alongside which their counsel adopted during the hearing of the motion and urged the court not to grant the application as prayed on the motion paper.

Upon being served with the Applicants/Respondents counter affidavit, the Applicants on 22/6/22 filed a further affidavit of 6 paragraphs and a reply on points of law in support of the Motion for setting aside.

I have carefully perused the Substantive Motion and the supporting affidavit. Reference will be made to them as the need arises. I have also carefully read and digested the written addresses filed in support of the Motion No. M/7703/22 and against same by the counsels for the respective parties and all the processes filed in connection with this motion. The case on either side may be gleaned from the salient paragraphs of their affidavits respectively filed in this regard

Appearances:

HON. JUSTICE EDWARD OKPE
(JUDGE)
14/7/22