

**IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY  
IN THE ABUJA JUDICIAL DIVISION  
HOLDEN AT GARKI, ABUJA - FCT**

**CLERK: CHARITY ONUZULIKE  
COURT NO. 10**

**SUIT NO: FCT/HC/PET/04/2023  
DATE: 18/01/2023**

**BETWEEN:**

**MR. WUSHISHI AUDU OLAOLUWA..... PETITIONER**

**AND:**

**MRS. WUSHISHI OBIAGELI JUDITH.....RESPONDENT**

**JUDGMENT**  
**(DELIVERED BY HON. JUSTICE SULEIMAN B. BELGORE)**

The Petitioner, Wushishi Audu Olaoluwa took out a petition on 19/12/2022 against the respondent Wushishi Obiageli Judith. It was the case of the petitioner that he married the respondent at the Federal Marriage Registry Abuja on 7/4/2018. The petitioner further stated that he cohabited with the respondent at Flat 3, Block G, Nationwide Estate, Wuye Abuja until when the respondent left the house on the 30/9/2019, and that the marriage produced Audu Kyrie Wushishi male born on 19/7/2018 whom Order V Rule 5 of the Matrimonial Causes Rules applies.

It must be stated that the petition settled by Ebere Nwanya (Mrs) is accompanied by a verifying affidavit and witness statement of Oath.

The respondent on 10/1/2023 filed an answer to the petition denied deserting the marriage but submitted that it was the petitioner who constructively deserted the marriage. The Respondent in Paragraph 6 on

the answer to the petition, admitted paragraph 8 of the petition and agreed she was pushed out of the matrimonial home in September 2019.

Equally, the parties filed Terms of Settlement on 17/01/2023, the terms of settlement was signed by the parties and respective counsel. They equally adopted same before me in urging the Court to enter judgment as per the terms.

## **RESOLUTION**

This case is a petition for dissolution of marriage celebrated at the Federal Marriage Registry Abuja on 7/4/2018, on the grounds that the marriage has broken down irretrievably as the petitioner and the respondent have lived apart for a continuous period of three (3) years immediately preceding the presentation of the petition. Both parties agreed that the respondent moved out on 30/9/2019 and has never condoned or consummated the marriage thereafter.

I have carefully examined the petition before me, I find that it was filed on the 19/12/2022. Calculation from 30/9/2019 to 19/12/2022, will show that the parties have lived apart for more than 3 years continuously preceding the presentation of the petition. I am therefore satisfied that the petition has satisfied the grounds set out in section 15(2) of the Matrimonial Causes Act.

What then shall the Court do? The Appellate Court teaches me that when I am faced with the situation such as this, I have no option than to dissolve the said marriage.

The Court of Appeal speaking through Adekaye JCA (as he then was) made this point in the case of **OMOTUNDE V. OMOTUNDE (2001) 9 NWLR (PT. 718) 252 @ 284, PARAS D-E**, when the Court held that:

***“By section 15(2) (f) of the Act, a Court hearing a petition for dissolution of marriage shall hold the marriage to have broken down***

*irretrievably if the parties in the marriage have lived apart for a continuous period of three years immediately preceding the presentation of the petition. The law is that the provision is mandatory and the Court has no discretion to exercise. The section has the factor of absence of fault element characteristics of other matrimonial offences – the law behind the Section that is S.15 (2) (f) as far as the living apart is concerned is not interested in right or wrong or guilt or innocence of the parties. Once the parties have lived apart, the Court is bound to grant a decree.”*

Consequently, I hereby decree and declare the marriage between the Petitioner Audu Olaoluwa Wushishi and the Respondent Obiageli Judith Wushishi celebrated at the Federal Marriage Registry Abuja on the 7/4/2018 is hereby dissolved by the operation of the law.

Equally, the terms of Settlement by the parties dated and filed on 17/01/2023 is hereby adopted and entered as Judgment of this Court.

**In view of the holdings above, it is ordered as follows:**

- (1) **IT IS HEREBY DECREED AND DECLARED** that the marriage between the Petitioner Audu Olaoluwa Wushishi and the Respondent Obiageli Judith Wushishi celebrated at the Federal Marriage Registry Abuja on the 7/4/2018 is hereby dissolved by the operation of the law.
- (2) **IT IS ORDERED** that the only child of the marriage named **Audu Kyrie Wushishi** remain in the custody of the Respondent and the Petitioner be given unlimited visitation rights with prior information of the said visitation first communicated to the Respondent.
- (3) **IT IS ORDERED** that the Holidays/vacation of the only child of the marriage **Audu Kyrie Wushishi** be spent with the Petitioner in the first instance and thereafter with the Respondent,

interchangeably, depending on the party that the child last stayed with during his last Holiday/Vacation.

- (4) **IT IS ORDERED** that the Petitioner takes up the responsibility to pay the cost of education (school fees and other school related expenses) of the only child of the marriage until the child can fend for himself.
- (5) **IT IS ORDERED** that the Petitioner will provide **N50,000.00 (Fifty Thousand Naira)** only monthly for the upkeep of **Audu Kyrie Wushishi** during the period the Respondent is in Custody of the Child.
- (6) **IT IS ORDERED** that the Petitioner pay a one off settlement amount to the Respondent in the sum of **N500,000.00 (Five Hundred Thousand Naira)** only to assist her rent for a decent accommodation where she will reside with the only child of the marriage in the Federal Capital Territory Abuja.

This shall be the Judgment of the Court.

SIGNED

**S. B. Belgore**

(Judge) 18/01/2023

**Appearances:**

**Ebere Nwanya (Mrs)** for the Petitioner

**C.F Odiniru, Esq.** for the Respondent