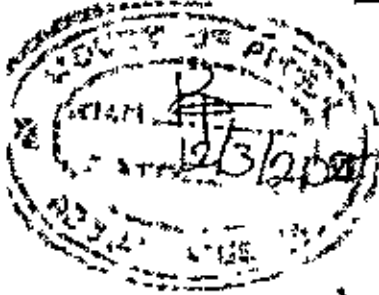


S/C

**IN THE COURT OF APPEAL OF NIGERIA
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT ABUJA**



**APPEAL NO:
APPEAL NO.: CVA/243/2019
CASE NO.: APP/10/2018**

BETWEEN:

BOB EMEKA IYASARA

} APPLICANT

AND

1. CHIOMA IYASARA
2. NIGERIAN CUSTOM SERVICE BOARD
3. FCT WELFARE DEPARTMENT
4. MR. IYASARA IFEANYI HENRY
5. PREMIUM PENSIONS LIMITED

} RESPONDENTS

MOTION ON NOTICE

**BROUGHT PURSUANT TO SECTIONS 241(1) (a) OF THE CONSTITUTION OF THE
FEDERAL REPUBLIC OF NIGERIA 1999 (AS AMENDED); ORDER 6 RULES 1, 2 & 4 OF
THE COURT OF APPEAL RULES 2021 AND UNDER THE INHERENT JURISDICTION OF
THIS COURT**

TAKE NOTICE that this Honourable Court shall be moved on theday of
....., 2025 at the hour of 9 O'clock on the forenoon or soon
thereafter as Counsel on behalf of the Applicant shall be heard praying this
Honourable Court for the following:

1. **AN ORDER** of this Honourable Court extending the time within which the Applicant may seek leave to appeal against the judgment of the High Court, Abuja Division sitting on appeal per J.O Adeyemi-Ajayi, J, and R.I Kanyip, J in Appeal No.: CVA/243/2019 Between CHIOMA IYASARA V. BOB EMEKA IYASARA & 4 OTHERS delivered on 19th March, 2024.
2. **LEAVE** to the Applicant to appeal against the judgment of the High Court, Abuja Division sitting on appeal per J.O Adeyemi-Ajayi, J, and R.I Kanyip, J in Appeal No.: CVA/243/2019 Between CHIOMA IYASARA V. BOB EMEKA IYASARA & 4 OTHERS delivered on 19th March, 2024.
3. Extension of time within which the Applicant may appeal against the judgment of the High Court, Abuja Division sitting on appeal per J.O



Adeyemi-Ajayi, J. and R.I Kanyip, J In Appeal No.: CVA/243/2019 Between CHIOMA IYASARA V. BOB EMEKA IYASARA & 4 OTHERS delivered on 19th March, 2024

4. **AND** for such further or other orders this Honourable Court may deem fit to make in the circumstance.

TAKE FURTHER NOTICE that the grounds upon which this motion is predicated are as follows:

1. The Applicant was the 1st respondent in the appeal filed before the 1st Respondent before the High Court of the Federal Capital Territory against the decision of the Family Court of the Federal Capital Territory.
2. The Applicant filed a brief of argument in the said appeal before the High Court of the Federal Capital Territory through his counsel on record.
3. The said appeal was adjourned to different appeal cycles before different panels as constituted by the Honourable Chief Judge of the Federal Capital Territory but no hearing notices were served on the 1st Respondent.
4. The said appeal was also heard without the service of any hearing notice on the applicant as the applicant was not notified by any hearing notice as to the time and place of the hearing of the said appeal.
5. That having not been notified of the date of the hearing of the said appeal, the applicant was also not notified by any hearing notice duly served on him or his counsel of the date of the delivery of the judgment in the said appeal.
6. The Applicant only became aware that a judgment had been delivered in the said appeal when on the 10th day of March, 2025 officials of the Premium Pensions contacted his family in Oguta, Imo State to inform them that they had received a formal request from the counsel to the 1st Respondent demanding that the pension contribution of his late father, Anthony Iyasara should be paid to the 1st Respondent, his estranged wife, and that the said letter of the 1st Respondent's counsel was accompanied by a copy of the judgment delivered on 19th March, 2024 in **Appeal No.: CVA/243/2019 Between CHIOMA IYASARA V. BOB EMEKA IYASARA & 4 OTHERS** by the High Court of the Federal Capital Territory, Coram: **J.O. Adeyemi-Ajayi, J and R.I Kanyip, J.**

7. That the said judgment set aside the judgment of the Family Court which had found that the pension contributions of the Applicant's late father, Anthony Iyasara be applied for the benefit and upkeep of his two children, the applicant and his step sister, who is the daughter of the 1st Respondent.
8. That as at the 10th March, 2025 when the Applicant became aware of the said judgment the period prescribed by law within which the Applicant may appeal against the said judgment as of right to this Honourable Court had lapsed.
9. The Applicant requires an order of this Honourable Court extending time and granting leave for him to appeal against the said judgment delivered on 19th March, 2024 in **Appeal No.: CVA/243/2019 Between CHIOMA IYASARA V. BOB EMEKA IYASARA & 4 OTHERS** by the High Court of the Federal Capital Territory, Coram: **J.O. Adeyemi-Ajayi, J** and **R.I Kanyip, J.**
10. The Applicant has already prepared his draft notice of appeal against the said judgment, and will file same if the time is extended for him to do so by the Order of this Honourable Court.
11. The Respondents will not be prejudiced by the grant of this application.

DATED THIS12TH.....DAY OFMARCH....., 2025



✓ CHIKE S. EKEOCHA, ESQ ✓
AZUBIKE MONEKE, ESQ
ONYEKA A. UZOWURU, ESQ
CHRIS I. UKPAI, ESQ
(Counsel to the Applicant)
Suite 2011, Anbeez Plaza,
Zone 5, Wuse, Abuja
Tel: 08023214999
chikezie.ekeocha@nigerianbar.ng

FOR SERVICE ON:

1. 1ST RESPONDENT

C/O HER COUNSEL
GEOFFREY UWADIEGWU OPUTA, ESQ
SUITE 16D, LAKE CITY PLAZA,
PLOT 1097, OLADIPO DIYA WAY,
GUDU DISTRICT, ABUJA

2. 2ND RESPONDENT
CUSTOMS HEADQUARTERS
ZONE 3, WUSE, ABUJA
3. 3RD RESPONDENT
ARTS & CULTURE BUILDING,
AREA 10, GARKI, ABUJA
4. 4TH RESPONDENT
UMUNKWOKWOMOSHI VILLAGE,
OGUTA, IMO STATE
5. 5TH RESPONDENT
NO. 4 AGWU CLOSE.
AREA 3, GARKI, ABUJA

IN THE COURT OF APPEAL OF NIGERIA
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT ABUJA

APPEAL NO:
APPEAL NO.: CVA/243/2019
CASE NO.: APP/10/2018

BETWEEN:

BOB EMEKA IYASARA

) APPLICANT

AND

- 1. CHIOMA IYASARA**
- 2. NIGERIAN CUSTOM SERVICE BOARD**
- 3. FCT WELFARE DEPARTMENT**
- 4. MR. IYASARA IFEANYI HENRY**
- 5. PREMIUM PENSIONS LIMITED**

} RESPONDENTS

AFFIDAVIT IN SUPPORT OF MOTION ON NOTICE

I, **Mrs Genevieve Iyasara Agorua**, female, adult, Christian, Nigerian Citizen of Jabi District, Abuja Abuja, do make Oath and state as follows:

- 1. That I am the elder sister of the late Anthony Iyasara and the aunt of Bob Emeka Iyasara, the son of the deceased Anthony Iyasara, who is the applicant before this Honourable Court.**
- 2. That by virtue of my position aforesaid I am conversant with the facts deposed to herein.**
- 3. That I have the consent of the Applicant to depose to this affidavit.**
- 4. That I know as a fact that the Applicant was the 1st respondent in the appeal filed before the 1st Respondent herein before the High Court of the Federal Capital Territory against the decision of the Family Court of the Federal Capital Territory.**
- 5. That I know as a fact that the Applicant filed a brief of argument in the said appeal before the High Court of the Federal Capital Territory through his counsel on record, Chike S. Ekeocha, Esq.**

6. That I know as a fact that the said appeal was adjourned to different appeal cycles before different panels as constituted by the Honourable Chief Judge of the Federal Capital Territory prior to the hearing of the said appeal but no hearing notices were served on the 1st Respondent.
7. That I know as a fact that the said appeal was also heard without the service of any hearing notice on the applicant as the applicant was not notified by any hearing notice as to the time and place of the hearing of the said appeal.
8. That I know as a fact that the applicant was also not notified by any hearing notice duly served on him or his counsel of the date of the delivery of the judgment in the said appeal.
9. That I know as a fact that the Applicant only became aware that a judgment had been delivered in the said appeal when on the 10th day of March, 2025 officials of the Premium Pensions contacted our family in Oguta, Imo State to inform us that they had received a formal request from the counsel to the 1st Respondent demanding that the pension contribution of his late father, Anthony Iyasara should be paid to the 1st Respondent, his estranged wife, and that the said letter of the 1st Respondent's counsel was accompanied by a copy of the judgment delivered on 19th March, 2024 in **Appeal No.: CVA/243/2019 Between CHIOMA IYASARA V. BOB EMEKA IYASARA & 4 OTHERS** by the High Court of the Federal Capital Territory, Coram: J.O. Adeyemi-Ajayi, J and R.I Kanyip, J. **A certified true copy of the said judgment is attached as Exhibit A.**
10. That it was after the said communication from Premium Pension, the 5th Respondent herein that the Applicant realized that the said judgment delivered on 19th March, 2024 had set aside the earlier judgment of the Family Court of the Federal Capital Territory which had Ordered that the pension contributions of the Applicant's late father, Anthony Iyasara with the Nigeria Customs and the Premium Pensions should be applied for the benefit and upkeep of his two children, the applicant and his step sister, who is the daughter of the 1st Respondent herein.
11. That I know as a fact that as at the 10th March, 2025 when the Applicant became aware of the said judgment the period prescribed by law within which the Applicant may appeal against the said judgment as of right to this Honourable Court had lapsed. That the Applicant is aggrieved by the said judgment.

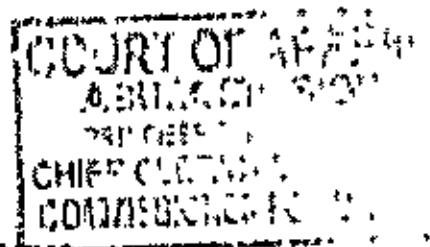
12. That the Applicant requires an order of this Honourable Court extending time and granting leave for him to appeal against the said judgment delivered on 19th March, 2024 in **Appeal No.: CVA/243/2019 Between CHIOMA IYASARA V. BOB EMEKA IYASARA & 4 OTHERS** by the High Court of the Federal Capital Territory, Coram: **J.O. Adeyemi-Ajayi, J and R.I Kanyip, J.**
13. That the Applicant has already prepared his draft notice of appeal against the said judgment, and will file same if the time is extended for him to do so by the Order of this Honourable Court. **A copy of the draft Notice of Appeal is attached hereto as Exhibit A**
14. The Respondents will not be prejudiced by the grant of this application.
15. That I depose to this affidavit in good faith believing the content to be true and in accordance with the Oath Act.


.....
DEPONENT

Sworn to at the Registry of the Court of Appeal, Abuja Division
this 12th day of March, 2025

BEFORE ME


COMMISSIONER FOR OATHS



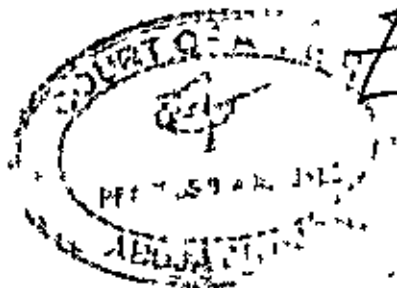


EXHIBIT A



IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION

HOLDEN AT ABUJA

BEFORE THEIR LORDSHIPS:

HON. JUSTICE J. O. E. ADEYEMI AJAYI (PRESIDING JUDGE)

HON. JUSTICE ROSEMARY. I. KANYIP (HON. JUDGE)

DATED THIS 19TH DAY OF MARCH 2024

APPEAL NO: CVA/243/2019

CASE NO: APP/10/2018

BETWEEN:

CHIOMA IYASARA

APPELLANT

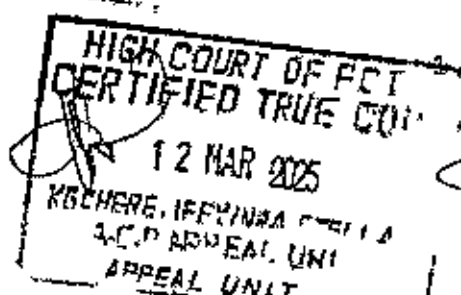
AND

1. BOB EMEKA IYASARA
(Suing through Folashade Bob Iyasara)
2. NIGERIAN CUSTOMS SERVICE BOARD
3. FCT WELFARE DEPARTMENT
4. MR. IYASARA IFEANYI HENRY
5. PREMIUM PENSIONS LIMITED

RESPONDENTS

JUDGEMENT.

DELIVERED BY HON. JUSTICE ROSEMARY. I. KANYIP



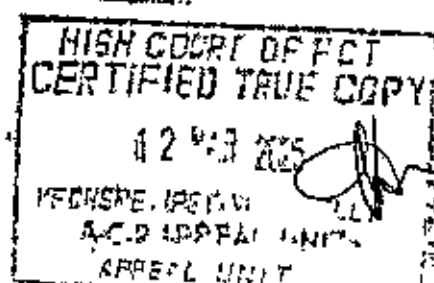
This appeal probes into the correctness of the decision of the Family Court, Wuse Zone 2, Abuja (hereinafter addressed as the lower Court) in case No. APP.10/2018, delivered on 26th July, 2019. By an Application for Commencement taken out on 23/7/2018, along with Motion on Notice the 1st Respondent (the Plaintiff at the trial Court) claimed four (4) reliefs, as follows:

- a. An Order of this Honourable Court that the applicant being the only son of late Mr Iyasara Anthony Chukwu, be made the sole beneficiary of the entitlements due to his late father.
- b. An order of this Honourable Court directing the Nigerian Custom Service to stop forthwith the payment to Chioma Iyasara the 2nd defendant and pay same into a joint account.
- c. An order of this Honourable Court for the 2nd defendant to refund the total sum of money being the welfare package of late Mr. Iyasara Anthony Chukwudi paid into her account back to the applicant being the bonafide beneficiary.
- d. And for such other and further orders as this Honourable court may deem fit to make in the circumstance of this case.

At the trial, the following persons testified for the 1st Respondent:

- a. Folashade Bob Iyasara (PWD) (See pages 67-74 of the Record).
- b. Mr. Chinedu Onumonu (PW2) (See pages 75-801st Respondent of the Record)
- c. Mrs. Genevieve Iyasara Agorua (PW3) (See pages 83-88 of the Record).

The Appellant testified in person as DW1 through an interpreter. (See pages 90-100 of the record) while the 2nd-5th Respondents did not file any processes and did not lead any evidence at the trial. At the end of the trial, the Appellant and the



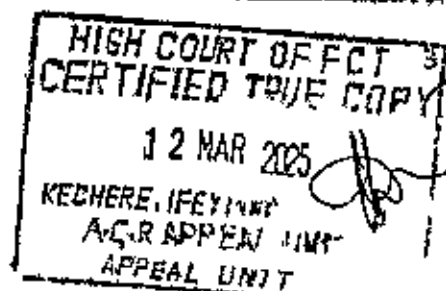
1st Respondent filed their respective Final Written Addresses and the trial Court adjourned for Judgment. The trial Court entered judgment in favour of the 1st Respondent, (the Plaintiff at the trial Court) thus:

- a. That the 1st and 5th defendants shall ensure henceforth any payment whatever entitled to late Iyasara shall be paid into a joint account maintainable in a reputable bank for the benefit of the applicant and his sister (daughter to 2nd defendant).
- b. That the 3rd respondent being the statutory body responsible for the well-being of a child of the family shall ensure the protection of these children.
- c. That the 3rd respondent shall ensure total compliance with this order and this order is made in the spirit and (sic) Child Right Act. 2003.

Dissatisfied with the judgment of the Honourable trial Court delivered on 26/7/2019, the Appellant filed a Notice of Appeal containing 9 Grounds of Appeal. The judgment of the Honourable trial Court appealed against is on pages 101 to 108 of the Record of Appeal (ROA), while the Appellant's Notice and Grounds of Appeal is on pages 109 to 116 of the ROA.

The Appellant herein, formulated 4 issues for the determination of this Appeal to wit:

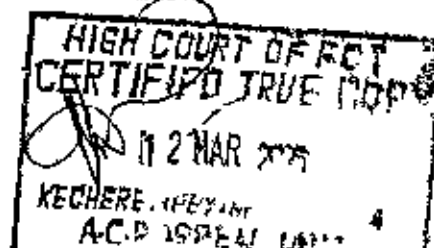
1. Whether the judgment of the trial Court is valid and can subsist in view of the contradictory evidence given at the trial for and on behalf of the 1st Respondent; and in view of the contradictory unsubstantiated findings of the trial court. (Grounds 1, 2 and 9)
2. Whether the judgment of the trial court is based on valid, cogent and verifiable evidence before it. (Grounds 3, 4, 6 and 7)



3. Whether the constitutional right to fair hearing of the Appellant was violated by the trial court and whether the trial court had jurisdiction when it sat over, heard and determined the case, the subject matter of this appeal (Grounds 5 and 8)
4. Whether the Interest of a child can deprive the Appellant of the constitutional right to her property. (Ground 7)

On the issues raised, learned Counsel for the Appellant argued that the evidence of PW1 and PW2 were shrouded in inconsistency and contradictions while PW3's testimony was a mere hearsay. Further to that, the judgment was materially contradictory; resulting into perverseness. He also maintained that the judgment of the trial Court is not based on valid, cogent and verifiable evidence before it. Learned Counsel posited also that the Court did not consider his written address in arriving at the judgment and thus denied the Appellant her constitutional Right of Fair hearing. He argued and maintained that the trial Court was not properly constituted with the Magistrate appearing alone without the compulsorily provided 2 assessors until judgment which robs it of jurisdiction to have entertained the matter. He finally submitted that it is inconceivable that the Hon. Family Court judge will completely and totally divest her of all interest in the estate and all her rights to her property and vest same on the 1st Respondent and the daughter of the Appellant exclusively. He urged the Court to set aside the Judgment of the trial Court.

Learned Counsel for the 1st Respondent filed his Brief of Argument on the 15th day of November, 2022 with a motion to regularize same. This motion with number M/246/2022 was not moved as the 1st Respondent has not been in Court since it was filed. Counsel for the Appellant, G. T. Iorver moved a motion that same Application be struck out which was granted by the Court.

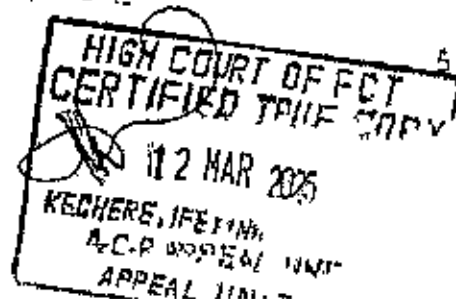


It is not disputable that the Respondents applied to Court to regularize their Brief which was filed out of time but same was struck out for non appearance of the 1st Respondent. Well, failure to regularize their position should not be enough liberty to disregard or discountenance the Brief of Argument already filed. The Court cannot close its eyes in the interest of justice to the said Brief. The story would have been different if the Respondents had failed to file any brief at all. This court follows the view expressed in the case of NWANIKWO VS. KANT (2010) 6 NWLR (PT.1189) 62 AT 91 AND OBO & ORS VS. OBAJI & ORS (2016) LPELR-42091(CA) (PP. 7-8 PARAS. D-D) and hold that the failure of the Appellants to regularize their Brief of Argument does not render the brief to be incompetent. The court shall consider the brief for the purpose of this Judgment.

Learned Counsel for the 5th Respondent also filed his Brief of Argument on the 2nd day of November 2021.

During the hearing, learned counsel for the appellant, G. T. Iorver (Holding the brief of G. U. Oputa Esq.) adopted the appellant's brief of argument, filed on 2nd June, 2020 and as representing his arguments for the appeal. He urged the Court to allow it. Similarly, learned counsel for the 5th Respondent, Laura E. Oviawe Esq., adopted the 5th respondent's brief of argument, dated 28th October 2021 and filed on 2nd November 2021, as forming his reactions against the appeal. He urged the Court to dismiss the judgement of the trial Court and allow the appeal in the interest of justice.

Very well, This Court has been approach to fundamentally appraise the soundness or otherwise of the judgment of the lower Court and entertain certain reliefs based on the findings of this Court. It is apposite that the two issues for determination which will completely covers in simple terms the grouse of the Appellant are as, viz:

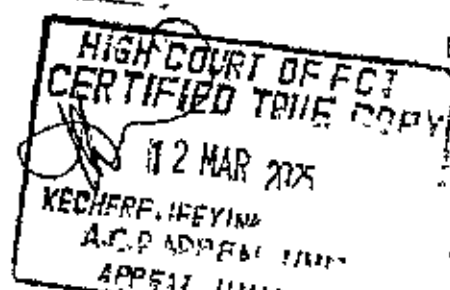


1. *"Whether or not the trial Court rightfully entered judgment in favour of the 1st Respondent in the light of the facts and evidence placed before it; and whether or not the trial Court breached the constitutional Right of the appellant to fair hearing by the said judgment?"*
2. *"Whether or not the trial family Court was duly constituted and conferred with jurisdiction to entertain and determine the suit before it?"*

ON ISSUE ONE:

The grouse of the Appellant is that, there were so many inconsistencies and contradictions from the evidences of the PW1 and PW2 at the lower Court that should have placed no probative value on same. Further to that, he opined that the findings of the trial Court is contradictory and unsubstantiated. According to learned Counsel, all these have invalidated the judgement of the trial Court. ~~Counsel further went on to state in clear terms 3 irreconcilable major~~ contradictions which are reproduced thus,

1. It was the evidence of PW1 that Anthony Iyasara lived and worked in Ilorin with the Nigerian Custom Service. This can be found on page 71 (line 12) of the ROA and page 72 (lines 5 and 10) of the ROA, but exhibit D1 and evidence of P3 (line 16) of page 69 of the ROA shows that the deceased never lived nor served in Ilorin contrary to the evidence of PW1.
2. It was the evidence of PW1 and PW2 that the Appellant herein was never married to the deceased, but exhibit D (on pages 139 of the ROA) made by the deceased himself before his death shows that he was married to the Appellant contrary to the evidence of PW1 and PW2.
3. It was the evidence of PW1 that she was married to Anthony Iyasara (line 14 page 67 and line 10 page 69.) of the ROA but in paragraphs 3 and 4 on page



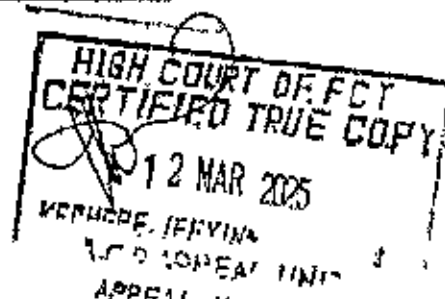
8 of the ROA she stated in a sworn affidavit and admitted in oral evidence on lines 7-9 on page 75 of the ROA that she was not married to Anthony Iyasara.

From the above, the first 'contradiction' deals with where the deceased had lived; the second is specifically on marriage of the Appellant herein to the late Anthony Iyasara. The third 'contradiction' deals with the marriage of the 1st Respondent's mother to the late Anthony Iyasara. This court will not deeply delve into these facts already considered by the lower Court, however it should be noted that these are good points, it is instructive that this court align with the position of the Judge at the lower Court that the issue in question is that of the paternity of the 1st Respondent.

The Court have held that for the inconsistency rule to apply to any given situation, the area of inconsistency must relate to a very vital issue, and not every minor inconsistency will suffice for this rule. See KWAIJOR VS. STATE (2013) LPELR-21029(CA) (PP. 16-17 PARAS. F). For the principle of inconsistency of the evidence of witnesses to apply, it must be shown;

- (1) That the inconsistency is material.
- (2) That the Trial Judge failed to advert to the inconsistency in his judgment and
- (3) That the inconsistency must be such as to amount to substantial disparagement of the witness or witnesses concerned that reliance on such testimony would likely result in miscarriage of justice. See AGBO VS STATE (2006) ALL FWLR (PT.309) 1380; USONGO VS STATE (2013) LPELR-22747(CA) (Pp. 17 paras. C).

What this court has laboured to say is that the decision of the trial Court is based on the issue raised therein by the Court. The core of evidence is relevant and it is

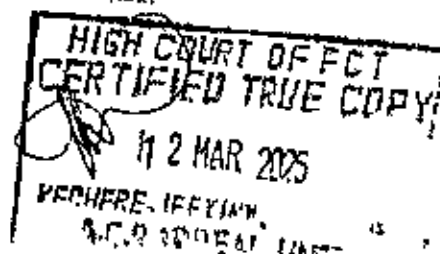


write that the trial Court is mandated to consider all the evidence that will aid in resolving the matter. In page 105(line one) of the ROA, the learned judge stated that:

"However, what is before the Court is whether or not the Applicant is actually the son of the deceased"

Evaluation of evidence is within the province of the trial court that heard and saw the parties and their witnesses. All facts should anchor on the need to ascertain the paternity of the 1st Respondent. The trial Court held thus:

"It is actually immaterial whether the Applicant's mother was legally married to late Anthony or not. The circumstance of the birth of the Applicant does not matter in the consideration of this Application. What needs to be established and I am convinced that it has been established by credible evidence is that late Iyasara Anthony actually fathered the Applicant. Exhibits A1, A2, A3, A5 namely, UNILORIN Teaching Hospital card, WAEC result, pictures of custom: official uniform of late Iyasara in the custody of FFI are evidence to prove that they actually lived together. Moreso, his relations i.e Brother and Sister attested to this fact and confirmed the status of the Applicant to the family. As pointed somewhere in this judgment irrespective of the circumstances of the birth of the Applicant, once its proved that he is a son of late Iyasara the law must rise to protect him. A child born in Nigeria is a child in contact with the law of the land and the law must serve and protect him, hence the promulgation of the Child Rights Act 2003"



Well. The first 'controversy' which focused on the fact that the late Anthony never lived in Ilorin and thus never met the 1st Respondent's mother (PW1 at the lower Court) has been dispel with Exhibits A1, A2, A3, A5 namely, UNILORIN Teaching Hospital card, WAEC result, pictures of customary uniform of late Iyasara in the custody of PW1 which shows that they actually lived together and that the late Anthony knew the 1st Respondent's mother. Further to that, the Court did not consider the marriage of the late Anthony to the Appellant or the 1st Respondent's mother herein as it is not a matter that will aid in resolving the issue at hand which is the paternity of the 1st Respondent.

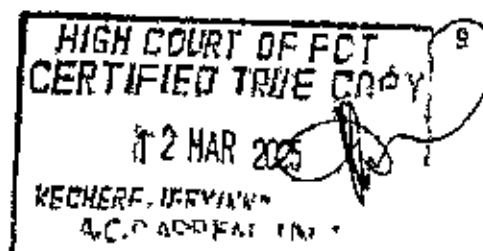
The Appellant argued and maintained that the evidence before the lower Court cannot support the holding that PW2 is a member of the Iyasara family. It is true that the court look into the nature of family holdings in Igboland where a woman can remarry at the death of the husband, imminent divorce to the husband and other factors. All Children from the former marriage automatically share same mother with the Children from the latter marriage but maintain the name of the former husband. In Igbo traditional setting, while all siblings from both fathers are relatives and are connected by blood, they have distinct family names with which they are considered core members of the families. Under cross examination, PW2 was asked;

Q. Are you the same father and mother with the late Iyasara?

A. No but the same mother.

PW3 whose identity with the late Anthony Iyasara was never in question and who is also from the Iyasara family corroborated the above when she stated under cross examination;

Q. What is your relationship with Chinedu? (PW2)



A. Half brother to the deceased brother.

The court align with the position of the trial Court and so hold that PW2 might not be a member of the immediate Iyasara family but is a sibling of the late Anthony Iyasara as siblings from the same mother. The fact that PW2 is a sibling of the Appellant. It was never on record that the Appellant herein challenged the fact that PW2 is of the same mother with the deceased. It is very important to note the difference between the review of processes and procedures and the findings of Court. The learned trial judge in his review of procedures stated that ;

"The 2nd defendant Mrs Chima (Sic) Iyasara as stated in this Judgement appeared in person and adduced evidence. Her testimony is basically to ascertain that she is the only wife to late Iyasara and no other..... The wedding pictures were tendered in evidence and marked as Exhibit D1. Under cross examinations, she testified further that she is aware late Anthony Iyasara had no other wife before he married her and had no other son than her daughter"

From the 90-91 of the ROA where the Appellant testified, nothing was mentioned as to the daughter of the Appellant or the 1st Respondent herein, it was during cross examination that she then stated that she is aware late Anthony Iyasara had no other wife before he married her and had no other son than her daughter. There is no form of any controversy or contradiction as reviewed by the trial judge. To prove the assertion that the 1st Respondent is the son of the late Anthony Iyasara, the 1st Respondent called 3 witnesses at the trial Court. While the PW1 established a nexus between the deceased and herself vide Exhibits A, A1, A2, A3, A6, etc, PW2 established the fact that he is a brother to the deceased and sometimes lived with him. He also asserted that he was at the marriage between the late Anthony and PW1 and had seen the 1st Respondent whom he knows is his late brother's son.

HIGH COURT OF FCY
CERTIFIED TRUE COPY

12 MAR 2025

KECHERE JEGYINHA

A.C.B. APPEAL UNIT

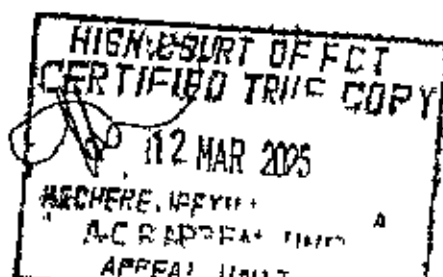
PW3 established the family relationship between her, PW2 with the late Anthony and maintained that her late brother informed them that he was going to marry PW1 which he later did after PW1 had given birth to the Respondent. The pervasiveness of the evidence and judgment of the trial court is what the court is labouring in futility to comprehend. The trial Court has considered the witnesses and also observed their demeanor, considered documentary exhibits tendered, reached a conclusion and it is not in the nature of this Court to re-evaluate the evidences already considered by the trial Court.

It is true that unless, it is shown that the evaluation done is perverse, the Appellate Court cannot interfere with the evaluation done by the trial Court, see **ZENITH BANK PLC V. TITILAYO (2015) LPELR-24782(CA)**

An appellate Court cannot interfere with findings of facts upon a proper evaluation of evidence. The Court can only interfere when the evaluation was improper thereby leading to perverse findings not supported by evidence, see **GAJI V. PAVE (2003) 8 NWLR (Pt 823) 583** which held thus:

"As a general principle of law, evaluation of evidence and the ascription of probative value to such evidence are the primary functions of a trial Court, which saw, heard and assessed the witnesses. Where a Court of trial, unquestionably evaluates the evidence and makes definite findings of fact which are fully supported by such evidence and are not perverse it is not the business of the Court of Appeal to substitute its own views for those of the trial Court. What the Court of Appeal ought to do is to find out whether there is evidence on which the trial Court arrived at its findings. Once there is evidence on record, the appellate Court cannot interfere." **TAJUDEEN V. STATE (PP. 39-40 PARAS. E, F).**

It is worthy to note that the evaluation of the evidences at the trial court being independently done by the Appellant counsel are all centered on the evidences of



the 1st Respondent and his witnesses at the lower Court. It is the mind of the trial Court (from the Judgment) that 1st Respondent herein has proved his assertion via the witnesses called and exhibits tendered, the onus now shifts to the Appellant to prove his own case.

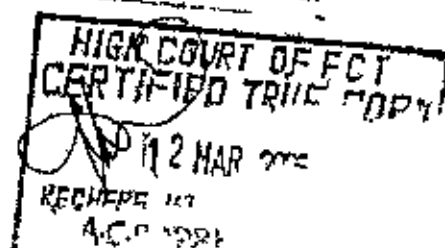
The Appellant has made out an issue of denial of constitutional right of fair hearing as the judge refused reliance on his written address filed at the lower Court. This court does not consider that to be true. It is important to reproduce the words of the trial judge as stated in Paragraph 2 of page 104 of the Record of Appeal viz:

"I must make this point promptly that cases in Court are decided based on the strength of evidence addressed and not on the intellect or brilliant submission of Counsel in address, learned Counsel has raised so many issues in his address which are not supported by the available evidence. This Court is only enjoined to determine a dispute between parties before it on the strength of evidence and not an address of Counsel."

The underlined show that the Court carefully considered the written address of Counsel and did not discountenance same. However, the trial judge is bound not to consider as a direction, the issues that do not have any bearing with the evidence or outside the facts duly considered by the trial Court. The trial judge had considered the many issues raised by Appellant's Counsel and had come to the conclusion that they are not supported by available evidences. On that too, this court aligns with the learned trial judge.

The learned trial Court did not take a voyage of solitude but only advanced a true fact in law and applied same in its judgment.

As noted by SANGA, J.C.A IN MADUBUEZE & ANOR VS. MORTGAGES PHB LTD. & ORS (PP. 53-54 PARAS. F-F)



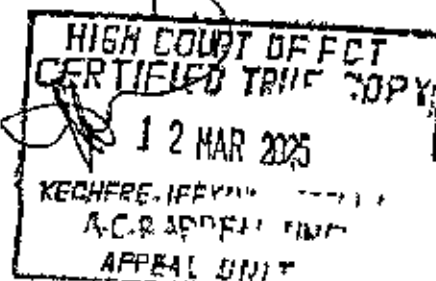
"Therefore the submission by learned counsel to the Appellants, no matter how brilliant cannot take the place of evidence. In *JAMES CHIOKWE V. THE STATE* (2012) LPELR - 19716 (SC) apex Court per PETER-ODILI, JSC held thus: - "It must be reiterated that submissions of counsel however beautiful or enticing cannot take the place of evidence. This is because address of counsel to be accepted and utilized must be a reminder to Court on evidence proffered. On its own address of counsel cannot stand." This Court put the issue succinctly in *OLA EMMANUEL ADEBOWALE ADEBAYO VS. CHIEF JULIUS ADEDURO OKEJA* (2015) LPELR - 40095 (CA) per BELGORE, JCA as follows: -

"The address of counsel cannot take the place of evidence and it cannot be the basis upon which an appeal will be decided."

The Supreme Court also put its imprimatur on this issue in *UNION BANK OF NIGERIA Plc & ANOR V. AYODARE & SONS NIGERIA LIMITED & ANOR* (2007) LEFLER - 3391 (SC) when it held, per ONNOGHEN, JSC (as he then was) as follows: -

"It is also settled law that address of counsel however brilliant cannot take the place of evidence particularly where there is no evidence as in the instant case, in support of the submission(s)." Per SANGA, J.C.A. IN *MADUBUEZE & ANOR V. MORTGAGES PHB LTD & ORS* (PP. 53-54 PARAS. F-F)

From the totality of the evidence, issue one as raised is resolved against the Appellant.

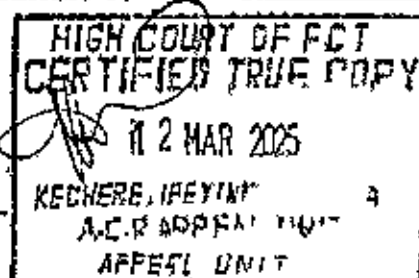


ON ISSUE TWO.

This issue deals on the composition of the Court which goes into the matter of Jurisdiction. It is trite that jurisdiction is so fundamental in any proceeding that where a Court does not have jurisdiction over a matter before it and it proceeds to hear and determine the matter, the entire proceedings no matter how well concluded would amount to a nullity, **GBAGBARIGHA v. TORUEMI & ANOR** (2012) LPELR - 15535(SC). Jurisdiction in its strict sense is the limit which is imposed upon the power of a validly constituted Court to hear and determine issues properly brought before it. The jurisdiction of any Court is not at large but is circumscribed within the confines of the law. The distinctive nature of the issue of jurisdiction was spelt out in the case of **DANGANA & ANOR v. USMAN & ORS.** (2012) LPELR-7827(SC) (CONSOLIDATED) as follows:

"The unique aspect of jurisdiction is that Courts are set up by the Constitution, Decrees, Laws, Acts and Edicts. They cloak the Courts with the powers and their jurisdiction of adjudication. If the Constitution, Decrees, 46, Laws and Edicts do not grant jurisdiction to a Court or tribunal, the Court and the parties cannot by agreement endow itself with jurisdiction. The jurisdiction of the Court is confined, limited and circumscribed by the statute creating it. Put briefly, a Court is competent when

1. It is properly constituted as regards numbers and qualifications of the members of the bench, and no member is disqualified for one reason or another; and
2. The subject matter of the case is within its jurisdiction, and there is no feature in the case which prevents the court from exercising its jurisdiction; and



3. The case comes before the court initiated by due process of law and upon fulfilment of any condition precedent to the exercise of jurisdiction.

Any defect in competence is fatal, for the proceedings are a nullity however well conducted and decided. the defect is extrinsic to the adjudication."

In view of the fact that jurisdiction is a threshold matter, it is very fundamental as it goes to the competence of the Court to hear and determine a suit. Where a Court does not have jurisdiction to hear a matter, the entire proceedings no matter how well conducted and decided would amount to a nullity. It is mandatory and very crucial that Court decide the issue of jurisdiction before looking into the extent of judicial power exercisable under that jurisdiction." Per NIMPAR, J.C.A in AG & CJ ANAMBRA STATE V. REGISTERED TRUSTEES OF THE CATTLE DEALERS, ASSOCIATION LAGOS STATE & ORS (2016) LPELR-40474(CA) (PP. 7-8 PARAS. A).

Section 155 of the Child Rights Act 2003 provides that

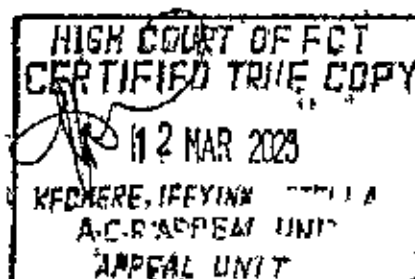
1. The Court at the Magisterial level shall consists of such number of --

- a) Magistrates, not below the rank of Chief Magistrate; and
- b) assessors, who shall be officers not below the rank Of Senior Child Development Officers as shall enable the Court to effectively perform its functions under this Act.

2. The members of the Court at the Magisterial level shall be appointed by the Chief Judge of the State and in the case of the Federal Capital Territory, Abuja, the Chief Judge of the High Court.

3. The Court at the Magisterial level shall be duly constituted if it consists of-

- a) A Magistrate;
- b) two assessors, one of whom shall be a woman and the other person who has attributes of dealing with children and matters relating to children, preferably in the area of child psychology education.

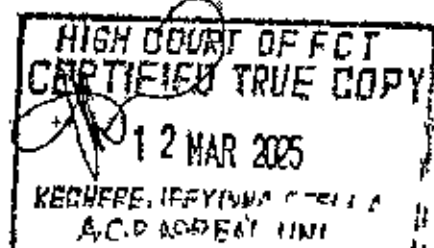


It is clear that there was the use of the word "shall" which in its ordinary meaning when used connotes a command, and that which must be given a compulsory meaning. See the case of ACHINEKU VS. ISHAGBA (1988) 4 NWLR (PTC 13) 411; L'NGO (NIG) LTD. VS. ARTCO INT. LTD (2011) LILLR-51744(CA) (PP. 13 PARAS. B). The word "shall" in its ordinary meaning is a word of command which is normally given a compulsory meaning. The word is intended to denote an obligation. The word "shall" when used in a statutory provision imports that a thing must be done. It is not merely permissive, it is mandatory. See NWANKWO VS YAR ADUA (2010) 12 NWLR PART 1209 P 518; SPEAKER KADUNA STATE HOUSE OF ASSEMBLY & ORS VS. NKOM & ANOR (PP. 13-14 PARAS. E).

Thus, The Child Rights Act made it compulsory that in every sitting of a family Court at the magisterial level, there must be a Magistrate and 2 Assessors. This is the composition of the family Court which makes it competent and clothes it with

Jurisdiction to entertain the said case. Once such composition is not complete, such Court cannot be said to be properly constituted as regards numbers and qualifications of the members of the bench... See AG. & CJ ANAMBRA STATE VS. REGISTERED TRUSTEES OF THE CATTLE DEALERS ASSOCIATION LAGOS STATE & ORS (Supra).

Still on composition of court, it is trite law that a court is competent when the court is properly constituted as regards its members and qualification to which no member is disqualified for any reason as earlier mentioned at the course of this judgment and there is no sort of variation. On this issues see the viz cases MUYIDEEN VS NBA & ANOR [2021] LPELR-53885 SC, MOHAMMED VS AUDU & ORS [2022] LPELR-57853 CA, NWALUTU VS NBA & ANOR [2019] LPELR-46916 SC, WAZIRI VS LEGAL PRACTITIONERS DISCIPLINARY



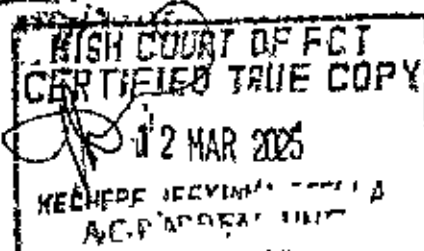
COMMITTEE & ANOR [2021] XX OYEWOLE & ORS VS LASISI & ANOR
[2014] LPELR-23076 CA and IKOKO & ORS VS ULU & ORS [2021] LPELR-
56567 CA.

From the record of Appeal before this Court, The Court sat 17 times from 20 July 2018 till 26th July 2019. Out of 14 sittings, the learned judge sat alone 13 times, it was only on the day of Judgment that Mr Kaka R and Folashade A were present as Assessors. A quick glance at the Judgment will reveal the use of pluralized words like 'we', 'our', etc which shows, that more than one person was involved in the decision making process as well noted by Learned Counsel for the 1st Respondent.

Where a member or members of a Court or Tribunal who were not present during the hearing culminating in its decision partake in the rendering of its decision, the result is to render the decision of the Court or tribunal a nullity. See NWALUTU V. NBA & ANOR (2019) LPELR-46916(SC), (2019) 8 NWLR (PT. 1673) 174; SOKOTO STATE GOVT. OF NIGERIA & ORS V. KAMDEX (NIG) LTD. (2007) LPELR-3093 (SC), (2007) 7 NWLR (PT. 1034) 466; ADESIGBE & ANOR V. KUSIMO & ORS (1965) LPELR-25226(SC). The absence of the Assessors in the composition of the family Court during the hearing of the Application against the appellant and delivery of the judgment therefore renders the whole proceedings a nullity.

This is not a mere irregularity and it goes into the Jurisdiction of the trial Court to have sat, heard and delivered judgement as a family Court without the requisite numbers of Assessors as provided in the Child Rights Act.

On the whole, This court is left with no choice than to resolve this issue in favour of the Appellant and hereby allow this Appeal.



HIGH COURT OF FCT
 CERTIFIED TRUE COPY
 12 MAR 2015
 KACHHRE, ISHTHANA STALLA
 A.C.2 APPEAL UNIT
 APPEAL UNIT

(Hon. Judge)

(Presiding Judge)

HON. JUST. JOE ADEYEM-ALAYI

HON. JUST. ROSEMARY I KADIP

11/11/15
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No order is made as to cost.

Conclusively, issue one has been resolved in favour of the Appellant while issue two
 as stated above is resolved in favour of the Appellant.
 Issue two "bothers on jurisdiction and having found same in favour of the
 Appellant, we hereby set aside the judgment delivered on the 26th day of July 2015
 by CORAM Hon. Zubeir Mohamed sitting in Family Court, Whse 2 FCT.

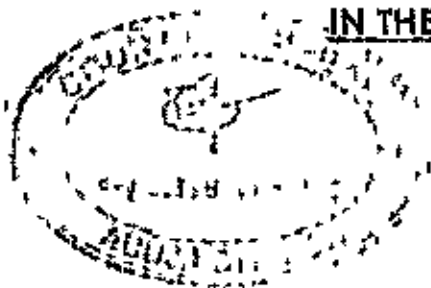


EXHIBIT B
IN THE COURT OF APPEAL OF NIGERIA
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT ABUJA

APPEAL NO:
APPEAL NO.: CVA/243/2019
CASE NO.: APP/10/2018

BETWEEN:

BOB EMEKA IYASARA

} APPELLANT

AND

- | | | |
|----------------------------------|---|--------------------|
| 1. CHIOMA IYASARA | } | RESPONDENTS |
| 2. NIGERIAN CUSTOM SERVICE BOARD | | |
| 3. FCT WELFARE DEPARTMENT | | |
| 4. MR. IYASARA IFEANYI HENRY | | |
| 5. PREMIUM PENSIONS LIMITED | | |

PROPOSED NOTICE OF APPEAL

TAKE NOTICE that the Appellant being dissatisfied with the decision of the High Court of the Federal Capital, Abuja (**Coram; J.O Adeyemi-Ajayi, J and R. I Kanyip, J**) contained in the Judgment of the Court dated the 19th day of March, 2024 in **Appeal No. CVA/243/2019 CVA/243/2019 Between CHIOMA IYASARA V. BOB EMEKA IYASARA & 4 OTHERS** doth hereby appeal to the Court of Appeal with the leave of the Court of Appeal upon the grounds set out in **paragraph 3** and will at the hearing of the Appeal seek the reliefs set out in **paragraph 4**.

AND the Appellant further states that the names and addresses of persons directly affected by the Appeal are as set in **paragraph 5**.

2. PART OF THE DECISION OF THE LOWER COURT JUDGMENT COMPLAINED OF:

The aspect of the judgment where the court below held that the Family Court lacked jurisdiction; the aspect where it struck out the processes filed by the appellant; and the non-service of hearing notice of the proceedings on the appellant.

3. GROUND OF APPEAL

GROUND ONE

The learned judges erred in law and misdirected themselves when they proceeded to hear and determine the appeal before them without the service of any valid hearing notice served on the appellant notifying him of the date and venue of the hearing of the said appeal.

PARTICULARS OF ERROR

1. The appellant was not served with any valid hearing notice informing him of the date of the hearing of the said appeal or the venue of such hearing.
2. The appellant was denied fair hearing as he was denied participation at the hearing of the said appeal.
3. The failure to serve the Appellant with a hearing notice led to a miscarriage of justice.

GROUND TWO

The learned judges erred in law when they struck out the motion on notice filed by the Appellant to regularize his brief of argument and the brief of argument filed before it.

PARTICULARS OF ERROR

1. There was no hearing notice served on the appellant for the proceedings wherein his motion on notice to regularize his brief of argument and his brief of argument were struck out by the court below.
2. The decision of the court below striking out the said motion on notice and brief filed by the appellant was predicated on the acceptance of the information volunteered by the counsel for the Respondent herein that the appellant has not appeared since the motion was filed.
3. The court below failed to verify from its record whether or not any valid hearing notice was served on the appellant.

4. The decision of the court striking out the said motion on notice and brief of argument filed by the appellant herein, when there was no service of hearing notice on the appellant, led to a miscarriage of justice.

GROUND THREE

The learned Judges erred in law when they held that the Family Court lacked jurisdiction to entertain the suit and to render the judgment on 26th July, 2019.

PARTICULARS OF ERROR

1. The Family Court was properly constituted and was duly conferred with jurisdiction.
2. The Family Court was duly constituted by the Chief Magistrate and the two assessors.
3. There was no evidence that the assessors were not present in court or that they did not participate in the trial.
4. The decision of the court below led to a miscarriage of justice.

4. RELIEFS SOUGHT FROM THE COURT OF APPEAL

- i. **AN ORDER** allowing the Appellant's appeal.
- ii. **AN ORDER** setting aside the aspect of the judgment of the High Court of the Federal Capital Territory, Abuja Coram: J. O Adeyemi-Ajayi, J and R.I. Knayip, JTaiwo O. Taiwo J in **Appeal No.: CVA/243/2019 Between CHIOMA IYASARA V. BOB EMEKA IYASARA & 4 OTHERS** delivered on 19th March, 2024 wherein it held that the Family Court lacked jurisdiction to entertain and determine the suit before it and to render the judgment of 26th July 2019.
- iii. **AN ORDER** that the Family Court was duly clothed with jurisdiction to determine the suit before it in Case No: APP/10/2018 between Bob Emeka Iyasara v. Chioma Iyasara & 4 Others and affirm the judgment of the Family Court rendered on 26th July 2019 in that case.

5. PERSONS DIRECTLY AFFECTED BY THIS APPEAL

1. The Appellant

C/O HIS COUNSEL
C.S. EKEOCHA, ESQ.

AZUBIKE MONEKE, ESQ
ONYEKA A. UZOWURU, ESQ
CHRIS I. UKPAI, ESQ
CHIKE S. EKEOCHA AND ASSOCIATES
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2. 1ST RESPONDENT
C/O HER COUNSEL
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SUITE 16D, LAKE CITY PLAZA,
PLOT 1097, OLADIPO DIYA WAY,
GUDU DISTRICT, ABUJA
3. THE 2ND RESPONDENT
CUSTOMS HEADQUARTERS
ZONE 3, WUSE, ABUJA
4. 3RD RESPONDENT/RESPONDENT
ARTS & CULTURE BUILDING,
AREA 10, GARKI, ABUJA
5. 4TH RESPONDENT
UMUNKWOKWOMOSHI VILLAGE,
OGUTA, IMO STATE
6. 5TH RESPONDENT
NO. 4 AGWU CLOSE.
AREA 3, GARKI, ABUJA

DATED THIS 12TH DAY OF MARCH, 2025



✓ CHIKE S. EKEOCHA, ESQ ✓
AZUBIKE MONEKE, ESQ
ONYEKA A. UZOWURU, ESQ
CHRIS'I. UKPAI, ESQ
(Counsel to the Applicant)
Suite 2011, Anbeez Plaza,
Zone 5, Wuse, Abuja
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FOR SERVICE ON:

1. 1ST RESPONDENT
C/O HER COUNSEL
GEOFFREY UWADIEGWU OPUTA, ESQ
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PLOT 1097, OLADIPO DIYA WAY,
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OGUTA, IMO STATE
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NO. 4 AGWU CLOSE.
AREA 3, GARKI, ABUJA

IN THE COURT OF APPEAL OF NIGERIA
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT ABUJA

APPEAL NO:
APPEAL NO.: CVA/243/2019
CASE NO.: APP/10/2018

BETWEEN:

BOB EMEKA IYASARA

) APPLICANT

AND

- 1. CHIOMA IYASARA**
- 2. NIGERIAN CUSTOM SERVICE BOARD**
- 3. FCT WELFARE DEPARTMENT**
- 4. MR. IYASARA IFEANYI HENRY**
- 5. PREMIUM PENSIONS LIMITED**

} RESPONDENTS

WRITTEN ADDRESS IN SUPPORT OF THE MOTION ON NOTICE FOR EXTENSION OF
TIME AND LEAVE TO APPEAL

1.0 INTRODUCTION:

- 1.1 The applicant, Bob Emeka Iyasara, has filed a motion on notice. The said motion on notice is brought pursuant to the provision of Sections 241(1)(a) the Constitution of the Federal Republic of Nigeria 1999 (as amended); Order 6 Rules 1, 2 & 4 of the Court of Appeal Rules 2021 and under the inherent Jurisdiction of this Honourable Court. The said motion prays this Honourable Court for the following reliefs:

- "1. AN ORDER** of this Honourable Court extending the time within which the Applicant may seek leave to appeal against the judgment of the High Court, Abuja Division sitting on appeal **per J.O Adeyemi-Ajayi, J, and R.I Kanyip, J in Appeal No.: CVA/243/2019 Between CHIOMA IYASARA V. BOB EMEKA IYASARA & 4 OTHERS** delivered on 19th March, 2024.
- 2. LEAVE** to the Applicant to appeal against the judgment of the High Court, Abuja Division sitting on appeal **per J.O Adeyemi-Ajayi, J, and R.I Kanyip, J in Appeal No.: CVA/243/2019 Between CHIOMA**



IYASARA V. BOB EMEKA IYASARA & 4 OTHERS delivered on 19th March, 2024.

3. Extension of time within which the Applicant may appeal against the judgment of the High Court, Abuja Division sitting on appeal per **J.O Adeyemi-Ajayi, J, and R.I Kanyip, J** in **Appeal No.: CVA/243/2019 Between CHIOMA IYASARA V. BOB EMEKA IYASARA & 4 OTHERS** delivered on 19th March, 2024

4. **AND for such further or other orders this Honourable Court may deem fit to make in the circumstance.."**

1.2 The motion is predicated on eleven (11) grounds as set out on the face of the motion paper; and in support of the said motion is an affidavit of 15 paragraphs deposed to by **Mrs Genevieve Iyasara Agorua**, the aunt to the Applicant. We rely on all the paragraphs of the said affidavit. There is two documents attached to the said affidavit which are clearly marked as **Exhibits 'A and B'**, the judgment and the proposed Notice of Appeal.

2.0 ISSUES FOR DETERMINATION

2.1 The sole issue that arises for determination in the humble view of the Applicant with respect to his motion on notice under reference is as follows:

2.2 **Whether the applicant is entitled from the facts and circumstances of the instant motion to the exercise of this Honourable Court's discretion to the grant of the prayers as sought by the Applicant?**

3.0 LEGAL ARGUMENT ON SOLE ISSUE

3.1 By the motion on notice under reference, the applicant prays this Honourable Court for an Order extending the time within which he may appeal against the judgment of the High Court of the Federal Capital Territory in **CVA/243/2029 Between CHIOMA IYASARA V. BOB EMEKA IYASARA & 4 OTHERS** as well as an Order granting the Applicant leave to appeal the said judgment delivered on 19th March, 2024 the time allowed him to appeal against the said judgment as of right having lapsed.

3.2 It is trite law that an application for leave to appeal is not granted as a matter of course. To be granted, sufficient materials must be placed before the court. Sufficient reasons must be adduced why the said appeal was not filed within time and the grounds of appeal must prima facie show good cause why the appeal should be heard. See **UKWU V. BUNGE (1997) 8 NWLR (PT. 513) 527 AT 541, PARAS. G - A** where it was held as follows:

The principles governing the grant of extension of time to apply for leave to appeal and extension of time to appeal as stated earlier in this judgment have been settled. In several decisions of this court some of which have been considered in this judgment. Order 3 rule 4(2) provides that there should be: (i) substantial reasons for the failure to appeal within time, and (ii) grounds of appeal which prima facie show good cause why the appeal should be heard. The two must be present. But where the proposed ground of appeal complains of lack of jurisdiction and it prima facie appears so, as in this case, I am of the view that it may not be necessary to inquire into the reasons for the delay the question of jurisdiction is a constitutional issue which may be raised at any stage of a proceeding even for the first time in this court. A court is bound to put an end to proceedings if at any stage and by any means it becomes manifest that they are incompetent "PER OGWUEGBU, J.S.C. (Pp.19-20, paras.C-G)".

See also *IMEGWU V. OKOLOCHA & ORS.* (2013) 9 NWLR (PT. 1359) 347 AT 369, PARAS. H – G.

3.3 It is respectfully submitted that the Applicant has placed sufficient materials before this Honourable Court to warrant the grant of this application. In paragraph 4-15 of the affidavit in support of this application the Applicant deposed as follows:

- "4. That I know as a fact that the Applicant was the 1st respondent in the appeal filed before the 1st Respondent herein before the High Court of the Federal Capital Territory against the decision of the Family Court of the Federal Capital Territory.
5. That I know as a fact that the Applicant filed a brief of argument in the said appeal before the High Court of the Federal Capital Territory through his counsel on record, Chiké S. Ekeocha, Esq.
6. That I know as a fact that the said appeal was adjourned to different appeal cycles before different panels as constituted by the Honourable Chief Judge of the Federal Capital Territory prior to the hearing of the said appeal but no hearing notices were served on the 1st Respondent.
7. That I know as a fact that the said appeal was also heard without the service of any hearing notice on the applicant as the applicant was not notified by any hearing notice as to the time and place of the hearing of the said appeal.

8. That I know as a fact that the applicant was also not notified by any hearing notice duly served on him or his counsel of the date of the delivery of the judgment in the said appeal.
9. That I know as a fact that the Applicant only became aware that a judgment had been delivered in the said appeal when on the 10th day of March, 2025 officials of the Premium Pensions contacted our family in Oguta, Imo State to inform us that they had received a formal request from the counsel to the 1st Respondent demanding that the pension contribution of his late father, Anthony Iyasara should be paid to the 1st Respondent, his estranged wife, and that the said letter of the 1st Respondent's counsel was accompanied by a copy of the judgment delivered on 19th March, 2024 in Appeal No.: CVA/243/2019 Between CHIOMA IYASARA V. BOB EMEKA IYASARA & 4 OTHERS by the High Court of the Federal Capital Territory, Coram: J.O. Adeyemi-Ajayi, J and R.I Kanyip, J.
10. That it was after the said communication from Premium Pension, the 5th Respondent herein that the Applicant realized that the said judgment delivered on 19th March, 2024 had set aside the earlier judgment of the Family Court of the Federal Capital Territory which had Ordered that the pension contributions of the Applicant's late father, Anthony Iyasara with the Nigeria Customs and the Premium Pensions should be applied for the benefit and upkeep of his two children, the applicant and his step sister, who is the daughter of the 1st Respondent herein.
11. That I know as a fact that as at the 10th March, 2025 when the Applicant became aware of the said judgment the period prescribed by law within which the Applicant may appeal against the said judgment as of right to this Honourable Court had lapsed. That the Applicant is aggrieved by the said judgment.
12. That the Applicant requires an order of this Honourable Court extending time and granting leave for him to appeal against the said judgment delivered on 19th March, 2024 in Appeal No.: CVA/243/2019 Between CHIOMA IYASARA V. BOB EMEKA IYASARA & 4 OTHERS by the High Court of the Federal Capital Territory, Coram: J.O. Adeyemi-Ajayi, J and R.I Kanyip, J.
13. That the Applicant has already prepared his draft notice of appeal against the said judgment, and will file same if the time is extended

for him to do so by the Order of this Honourable Court. A copy of the draft Notice of Appeal is attached hereto as Exhibit A.

14. The Respondents will not be prejudiced by the grant of this application.

15. That I depose to this affidavit in good faith believing the content to be true and in accordance with the Oath Act.

3.4 By the aforesaid averments, the Applicant has adduced reasons why he was unable to appeal within time as of right against the said judgment. We submit that the Applicant has made out a good case for the grant of the prayers sought as per his motion on notice under reference.

3.5 Lastly, the Applicant has good, substantial and arguable grounds of appeal. We refer to **Exhibit A** attached to our motion. At this stage, an Applicant is not required to show that the appeal would succeed if leave is granted. It is sufficient to show that there is an arguable appeal.

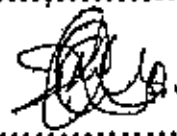
CONCLUSION

1.1 Predicated on the totality of our submission above, this Honourable Court is respectfully urged to grant Applicant's reliefs.

1.2 May your lordships be pleased.

DATED THIS 12TH DAY OF MARCH, 2025




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FOR SERVICE ON:

1. 1ST RESPONDENT
C/O HER COUNSEL

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GUDU DISTRICT, ABUJA

2. 2ND RESPONDENT
CUSTOMS HEADQUARTER'S
ZONE 3, WUSE, ABUJA
3. 3RD RESPONDENT
ARTS & CULTURE BUILDING,
AREA 10, GARKI, ABUJA
4. 4TH RESPONDENT
UMUNKWOKWOMOSHI VILLAGE,
OGUTA, IMO STATE
5. 5TH RESPONDENT
NO. 4 AGWU CLOSE.
AREA 3, GARKI, ABUJA