

In the Name of the Merciful God

National Supreme Court

Personal Status Division

Case No 471/2015

Issued by the Supreme Court Personal Status Division on 12/8/2015 under the chairmanship of Mr. Salah Al-Tijani Al-Amin and members Yaaqoub Hamad Abdul Rahman and Ms. Rabab Mohammad Mustafa Abu Kousaisa: Judges of the Supreme Court.

The appeal case number 122/S/2015 has been submitted. Al-Khartoum Court of Appeal and the case papers 675/K/2014 Khartoum-East Court D A CH, registered under number 243/appeal/2015

Appellant: Zineb Izz Al-Din Mohammad

versus

Respondent: Seif Al-Din Marzouk

The Judgment

The case number 675/2014 in the Khartoum-East Personal Status Division, Court of First Instance, was postponed to hear evidence of the respondent's negligence in the education of her children, but the respondent did not accept this decision and filed his appeal number CH/112/2015 before the Court of Appeal of Khartoum. The appeal has been filed.

The Appellant filed through her attorney Sateaa Mohammad al-Haj this request, in which she asked to overturn the judgment of the Court of Appeal upholding the decision of the Court of First Instance.

The request was submitted within the time prescribed by law, in which there are questions as to the immediately-enforceable instructions and the final order of the dispute. It is thought that the appeal judgment does not fall under Article 157 of the Code of Civil Procedure (Amendment 2009), because its meaning is based on the inclusion of children and not on the decision of the Court of First Instance that treated the case as a matter of abandonment of guardianship. There is a big difference between the annexation action and the claim to testify. The decision of the Court of First Instance to hear evidence of negligence is erroneous and must be delimited between the act of annexation and the application for dismissal because the reason for each of them is different.

With respect to the hearing of the evidence, and despite our agreement with counsel for the appellant on the meaning that we have evoked, the essential point is that the hearing mentioned does not terminate the trial. At the end of the case, he may discuss all matters, including the discussion of abandonment and annexation, but the decision of the evidence does not end the dispute. Because of the subject of rivalry, as stressed by the lawyer, who knows the difference between abandonment and annexation, which is determined by the age of the child, the benefits

of the father and mother of the child according to the role of each of them under the law, I therefore consider it necessary to bring the appeal for annulment.

Salah Al-Tijani Al-Amin

Supreme Court Judge

7/7/2015

Yaaqoub Hamad Abdul Rahman

Supreme Court Judge

9/7/2015

The appellant may include the children if he has proved that the respondent neglects his children, which does not constitute an offense under the law, and that giving him evidence of negligence is not against the law. Making the order to postpone the hearing while waiting for the evidence cannot put an end to the dispute, so I agree with my colleagues to cancel the appeal.

Rabab Mohammad Moustafa Abou Kousaisa

Supreme Court Judge

8/8/2015

Final judgment:

Dismiss the appeal

Salah Al-Tijani Al-Amin

Supreme Court Judge and Head of Division

12/8/2015