

## National Supreme Court

### Criminal Circle

#### Repeal Decision 465/2015

Issued by the Supreme Court of the Personal Status Department, a second department 28/6/2015, headed by Mr. Altayb Abd Algafoor Abd Alwahab, Membership of Ms.D Sittna Abd Algaleel, and Membership of Fadia Ahmed Abd algadir the presidents of supreme court.

Appeal papers filed No.225/S/2015 Appeal court Umdurman D A S/ and papers of lawsuit 265/G/2015 court/ middle Umdurman.

Restricted under 267/Appeal decision/2015.

Babikir Ali Abbas

Appellant

Tasneem Alniwayry

Appellee

### The Judgement

Appeal petition filed by the lawyer Sheikh aldeen Alnwaim on behalf of Babikir Ali Abbas /against/ judgement No. A S SH /21/2015 Umdurman Appeal court, that judged by abolishing appeal request briefly.

The contestant received the image of the contested judgment on 5/6/2015 and the contestant filed his appeal 16/6/2015, accordingly; the appeal is acceptable formally under 159/190 of Civil Proceedings Code 1983. In terms of the appeal, it came as **following**:

Obituary to the decision of the Court of Appeal.

2/Violation of the law as it supports the lower courts, where violated article 75 of personal status code 1991 and article 235 of Civil Proceedings 1983, In face of the article 217 of proceedings 2009. The appeal added that the appellant had not issued a judgement proving that the appellee had been raped, as the courts were unable to separate for the appellee of suit of the obedience that from appellant against the appellee No. 227/2013, legitimate court of Karary. The contestants against her has stopped the divorce claims for damage and discord.

Accordingly, the appellant requested to cancel the decisions of the lower courts and return the papers to the court of execution to hear the evidence on the execution dispute.

The causes:

The Appeal petition does not deny that there is a lawsuit of obedience in the number referred to. The appeal has been set up by the appellant against the contestants, but we do not agree with the statement made by the appellant to the contestants that the courts were unable to adjudicate the obedience case. The contestants filed the relevant claims against the other party's claim for divorce for damage, and then the divorce of the dispute.

We do not see this as a violation of the law, in more subtle terms. The appellant must continue his lawsuit against the contestants, and there is no other way than that, other than the insistence of the appellant to transfer the cases to the referred number. The investigation of the execution file is not legally supported, and it is not a dispute for execution, as it was named according to the terms of the appeal, therefore, we do not need to request the papers because the appeal petition included all the facts and submitted them. However, it is the court of execution of the applications contained therein, and referred to in advance, and after the agreement of colleagues we decide to abolish the petition.

Signature of :

Sittna Abd Algaleel Muhammad

Seal of :

The president of supreme court

22/6/2015

Signature of :

Fadia Ahmed And algadir

Seal of:

The president of supreme court

24/6/2015

Signature of :

Altayb Abd Algafoor Abd Alwahab

Seal of :

The president of supreme court

28/6/2015

*Final order:*

The appeal should be abolished briefly.

Signature of :

Altayb Abd Algafoor Abd Alwahab

Seal of :

The president of supreme court

28/6/2015