



THE REPUBLIC OF UGANDA

IN THE CONSTITUTIONAL COURT OF UGANDA

HOLDEN AT KAMPALA

CONSTITUTIONAL PETITION NO 19 OF 2018

**ABONEKA MICHAEL=====PETITIONER**

**VERSUS**

**WATOTO CHURCH LTD=====RESPONDENT**

**PETITION**

*(Under Articles 2, 27, 31, 33,137 of the Constitution of the Republic of Uganda and  
Constitutional Court (Petitions and References) Rules, S.I 91/2005)*

THE HUMBLE PETITION OF **ABONEKA MICHAEL** whose address for the purpose of this petition is stated as the foot of this petition, states-

1. Your Petitioner is a male adult Ugandan of sound mind, a practising Advocate and also a Human Rights, Democracy, Constitutionalism and Good governance Activist. He is also a member of the Rule of Law and Strategic Litigation Committee of the Uganda Law Society. He has been involved in the development of several Policies and Country processes in a bid to safe guard the sanctity of the constitution.
2. The Respondent is a body corporate, capable of suing and being sued, one of the most reputable churches in Uganda and duly licensed to conduct marriages.
3. Your Petitioner has expressed interest to get married at the Respondent Church and made initial bookings with the Respondent and is now in dilemma as his free will is constrained by the mandatory requirements that he has been asked to furnish before he can be wedded, which he construes to be a violation of his fundamental human rights

and acts that contravene the Constitution, the supreme law of the land, binding on all persons and authorities throughout Uganda.

4. The aforementioned humble Petitioner is a fervent believer in the Rule of Law, Fundamental Human Rights and Freedoms and Constitutionalism and has an interest in the matters herein below which he firmly believes are inconsistent with and in contravention of the provisions of the Constitution of the Republic of Uganda, as follows:

(a) **THAT** the mandatory requirement of the letter of blessing from the bride's parents or guardians offends the right to free will and consent to marriage and is in contravention of **Articles 31 (1) & (3)** of the Constitution of the Republic of Uganda.

(b) **THAT** the mandatory requirement for a pastor to interview/interact with intending couples with absolute power, unfounded in law to declare them fit or not fit for marriage, or fit with "*conditions*" by mere interview is unconstitutional as it violates the parties' right to free consent in contravention of **Article 31** of the Constitution of the Republic of Uganda.

(c) **THAT** the mandatory requirement of an HIV testing and Counselling report and from specific medical facilities violates the right to privacy of an individual and the freedom to seek medical services from centres of their choice is in contravention and inconsistent with **Article 27 (2)** of the Constitution of the Republic of Uganda.

(d) **THAT** by the Respondent requiring a letter of consent/blessings from the parents of the bride only and not that of the groom, is discriminatory in nature and undermines the dignity, welfare, interest and status of the women and is in contravention with **Article 33 (4), (6)** of the Constitution.

5. **THAT** these mandatory requirements negate the free will of the parties to consent to the marriage as they cannot be wedded if the above requirements are not submitted to the Respondent's offices. This undermines the purpose of Marriage which is sacrosanct

as intending couples are coerced to comply with the above requirements that do not have a standing in law.

6. **THAT** the mandatory requirements are not founded in any law as they are a mere innovation by the Respondent and therefore inconsistent with the Constitution of the Republic of Uganda which establishes the legal requirements for any form of marriage in Uganda.
7. THIS Petition is supported by the affidavit sworn by the Petitioner attached hereto and any other affidavits and evidence that shall be made available before the hearing;
8. Your Petitioner's Advocates are: *M/S Thomas & Michael Advocates, Plot 92C, Bukoto-Ntinda Road, P.O Box 20147 Kampala, Uganda.*
9. The Respondent's Address is *Watoto Church Building, Plot 73 Kampala Road, P.O Box 26366 Kampala, Uganda.*

WHEREFORE your humble Petitioner brings this Petition as an aggrieved person and in public interest and humbly pray that this Honourable Court may be pleased to grant the following Declarations and Orders:

**I. DECLARATIONS THAT:**

- a. The Respondent's mandatory requirements for a letter of blessing from the bride's parents or guardians offends, negates, overlooks or otherwise infringes on the right to consent to a marriage by a bride of majority age, thereby contravenes **Article 31** of the Constitution and is therefore an illegality.
- b. The Respondent's mandatory requirement for an HIV Testing and counselling report from only three (3) specific medical centres violates the right to privacy of an individual and it contravenes **Article 27** of the Constitution which protects individuals' right to privacy.
- c. The Respondent's mandatory requirements for a pastor to interview/interact with intending couples with absolute power, unfounded in law to declare them

fit or not fit for marriage by mere interview is unconstitutional as it violates the parties' right to free consent in contravention of **Article 31** of the Constitution.

- d. The Mandatory requirement of a letter of consent/blessings from the parents of the bride only and not that of the groom, is discriminatory in nature and undermines the dignity, welfare, interest and status of the women and is in contravention with **Article 33 (4), (6)** of the Constitution.

## **II. ORDERS THAT**

- a. The Respondent is refrained from making those documents mandatory before officiating a marriage.
- b. All marriages/weddings that were conducted by the respondent under the same mandatory requirements are irregular , unfounded in law, unconstitutional and are null and void.
- c. All Churches, mosques and any other institutions that celebrate/ officiate marriages be restrained permanently from making the letter of consent/blessing from the bride's parents, HIV Reports of intending Couples, Introductory letters a mandatory requirement for a marriage for intending couples who are of majority age.
- d. Any other reliefs that this Honourable Court may deem fit.

DATED at Kampala this .....day of May 2018

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**Counsel for the Petitioner**

**Drawn and Filed by:**

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