

**IN THE HIGH COURT OF FEDERAL CAPITAL TERRITORY**  
**IN THE ABUJA JUDICIAL DIVISION**  
**HOLDEN AT ABUJA.**

**BEFORE HON. JUSTICE J.E. OBANOR**  
**ON THURSDAY THE 30<sup>TH</sup> DAY OF SEPTEMBER, 2021.**

**SUIT NO: FCT/HC/PET/574/2020**

**BETWEEN:**

**IJEOMA ADAEZE NWABUEZE**

**....PETITIONER**

**AND**

**OBIORA EBENEZER NWABUEZE**

**..... RESPONDENT**

**JUDGMENT**

In this petition for dissolution of marriage, the petitioner sought against the respondent the following reliefs:

- a. A DECREE OF DISSOLUTION OF MARRIAGE on the ground that the marriage between her and the respondent has broken down irretrievably.
- b. Sole custody of the children of the marriage.

The respondent was served with the originating process and hearing notices but choose not to participate in this matter. The matter proceeded to hearing on the 29<sup>th</sup> of March 2021 when the petitioner testified as PW1 . She adopted her statement on oath sworn to on the 24<sup>th</sup> of November 2020, as her evidence in this matter.

It is the petitioner's evidence that She got married to the Respondent under the Marriage Act at Dominion City Enugu, Enugu State on the

8<sup>th</sup> day June 2002. That Respondent is rash, very temperamental, violent in nature, miserly and very hostile.

It is her evidence also that they have lived apart for a period of more than two years since 2018 when the respondent left her and children. She testified that the respondent has been cruel to her and did not take care of her and the children. The petitioner further testified that the Respondent defied every move at settlement. The marriage certificate was admitted as exhibit B.

At the end of the evidence in chief of the petitioner, the matter was adjourned to 3<sup>rd</sup> day of May 2021 for cross examination of PW1 but on the said date the respondent did not bother to come to court to cross examine PW1 and was consequently foreclosed on the application of the learned counsel for the petitioner.

The matter was adjourned to 15 July 2021 for adoption of final written addresses. The petitioner's final written address is dated 6<sup>th</sup> July 2021 and filed on the 7<sup>th</sup> of July, learned counsel for the petitioner adopted same as her submission in this matter. The Respondent did not file any or make any representation in this matter and therefore did not have anything to urge the court,

It is the submission of the petitioner's counsel that the petitioner has proved her case on the preponderance of evidence as required by law in civil cases. She urged the court to give judgement for the petitioner based on the unchallenged evidence.

It is a trite law that when a Defendant leads no evidence, the plaintiff's evidence before the court under such circumstance clearly goes one way with no evidence to be placed on the other side of the proverbial imaginary scale as against such evidence given by or on behalf of the plaintiff. In other words, the onus of proof in such a case is discharged on minimal proof. See the case of **BOODLINE ENT.LTD**

***V.MONTEREY MARITIME CORP.(1995)9NWLR(P.T 417)1SC27  
PARS C TO D. NWOBUOKU V . OTTIH (1961)2 SCNLR)232.***

In this case, the evidence of the petitioner remains unchallenged. I do not have any difficulty in accepting it as sufficient proof of her case in this matter. In the end the, the petition succeeds in part and I make the following orders:

- A. A declaration that the marriage between the Respondent and Petitioner on the 8<sup>th</sup> day of June 2002 at Dominion City Enugu, Enugu State has broken down irretrievably for the reason that the Petitioner and the Respondent have lived apart for a period of about two years preceding this petition and the Respondent does not object to it.
- B. By reason of this, a decree nisi is granted in dissolution of the marriage. The decree nisi shall become absolute after three months from today.
- C. Sole custody of the children of the marriage ( Nwabueze Chinadaobi Ebenezer Cyril and Nwabueze Jezikora Isabel Adaeze) is hereby granted to the petitioner pending when they attain majority for them to determine who to stay with, with right of access to them during schools and holidays granted to the Respondent whenever request to that effect is made.
- D. A consequential order is hereby made that the Petitioner and the Respondent will jointly maintain the children of the marriage financially.

**Signed  
Hon. Judge  
30/9/2021**

**LEGAL REPRESENTATIONS:**

- (1). Apollos Erdoos David Esq for the Petitioner.
- (2). No Legal Representation for the Respondent.