

It is the story of the Petitioner that he was married to the Respondent on the 3rd of January, 2003 at the AMAC Marriage Registry. That the Respondent – Angel Joyce Rolieribo deserted the Petitioner and carted away all his belonging sometime in the last week of February 2018. She also absconded also with the 2 Children of the marriage – Valerie Kelechi Ibe born on the 18th February, 2003 and Hamold Uche born on the 9th day of January, 2006.

The Petitioner listed fifteen (15) items which the Responded carted away with from her matrimonial home. The items ranged from Toyota 4Runner SUV 2012 model to 6 x 6 mattress, 8 x 7 and 4 x 6 mattress and other things.

To the Petitioner, the Respondent has been in desertion since February 2018 till date. He has not seen the Children of the marriage and all entreaties to make her see reason had proved abortive.

The worst is that the Respondent deserted the Res when he had the health challenge that culminated into a stroke. It was while he was on admission in hospital that the Respondent disappeared.

To the Petitioner, the marriage had broken down irretrievably and the Petitioner is expected to cohabit with the Respondent based on the desertion and the behaviour of the Respondent towards the Petitioner.

The Petitioner also wants to have sole and exclusive custody of the Children of the marriage and to have authority in final decision making on the welfare and

education of the Children, their health among others. That the Respondent should equally be provided the opportunity to participate in the decision making process as to any significant matter(s) concerning the Children.

This Court made several efforts/attempts to personally effect service of the Petition on the Respondent. But all proved abortive. The Court ordered for Substituted Service of all the Processes on the Respondent. That Order was carried out to the later. But the Respondent did not file any answer.

The Court has it on good note that she/Respondent is aware of the pendency of this Suit against her in this Court. She had no Counsel representation. The Petitioner testified and Court gave chance for the Respondent to Cross-examine but she failed, refused and did not do so. There is no answer to this Petition.

This Court, based on that, hold that the facts in support of this Petition and the Petition in its entirety is not challenged.

It is the law that unchallenged facts are deemed admitted and accepted as truth by the party who is supposed to challenge those facts especially where the party was given all judicial leverages to do so but fails to do so. That is exactly the situation in this Petition. It means that this Petition is not challenged and the Judgment is based on the facts and evidence adduced by the Petitioner.

It is a fact that once a marriage has broken down irretrievably, that any of the facts in S. 15 of the MCA

suffices as a good ground to dissolve the marriage. One of such grounds is desertion.

In this case, the Petitioner had informed Court in his Petition and testimony that the Respondent has been in desertion since February 2018 till date.

It is the provision of the law MCA/MCR that once there is evidence of desertion for one (1) whole year, that it is a strong ground that marriage has broken down irretrievably.

In this case, the desertion is more than one year. It is about four (4) years since the Respondent has been in desertion. That is a strong ground. Again, it is obvious that based on the desertion, that there has also been severance of conjugal right too implied.

The Court adopts as if set here seriatim the facts as detailedly contained in the said Petition.

From all indication the marriage between the Petitioner and the Respondent has broken down irretrievably. There was desertion for more than two (2) before this Petition was filed. That desertion had continued throughout the duration of Hearing of this Petition.

There is no Judgment of any Court that will force a party in any marriage to continue in the marriage when such party had indicated to the Court that he/she had had enough.

As it is, this Court has no power to force the Petitioner to continue his marriage with the Respondent against his

will. Doing so will be suicidal going by the gory details of the facts as contained in this Petition.

The Petitioner had wanted sole and exclusive custody of the two (2) Children of the Marriage. This Court cannot grant the sole custody because of the health condition of the Petitioner. But since he had asked that the Respondent be provided with opportunity to participate, the Court will grant equal custody to the parties in this Order.

This Court hereby Orders that:

The Respondent shall immediately produce the two (2) Children of the marriage and disclose to the Petitioner their where-about, location and school(s) where they are attending.

She should also allow the Petitioner access to visit them at all reasonable time during the school year.

The Children shall spend the school period with the Respondent and the Petitioner shall have them during the holidays with the access given to the Respondent to visit them. If they are in Borden house the Petitioner should be allowed to visit them. But if not the Petitioner should have visiting right to see them on two (2) weekends in every month.

The parties should have joint participation in decision making as to the welfare of the Children education and Religion.

The said marriage between the parties – Bede Uchenna Ibeh and Angel Joyce Rolieribo contracted

on the 3rd January, 2003 at the Abuja Marriage Registry is hereby DISSOLVED today the 17th day of February, 2022.

This is the Order Nisi of this Court.

If the parties did not come together after ninety (90) days from today, the said Order Nisi shall automatically be made absolute.

This is the Bench Judgment of this Court.

Delivered today the ____ day of _____ 2021 by me.

**K.N. OGBONNAYA
HON. JUDGE**