

**IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY**

**IN THE ABUJA JUDICIAL DIVISION**

**HOLDEN AT JABI**

**THIS 12<sup>TH</sup> JANUARY, 2022**

**BEFORE HIS LORDSHIP: HON. JUSTICE A.A FASHOLA**

**SUIT NO: CV/085/2021**

**BETWEEN:**

**MRS. JUSTINA ADIN PAUL ONOJA - - PETITIONER**

**AND**

**MR. EMMANUEL OJONUYO PAUL - RESPONDENTS**

**JUDGMENT**

This is a Petition for dissolution of marriage dated the 16<sup>th</sup> February, 2021 and filed on the same date the petitioner is praying for the followings reliefs.

1. A decree of dissolution of marriage on the ground that the marriage has broken down irretrievably and the Respondent has behaved in such a way that the petitioner could not reasonably be expected to live with him.
2. And for such order or any further orders this honourable court may deem fit to make in the circumstances.

The grounds upon which this application is brought are:

That the Petitioner and the Respondent got married under the Marriage Act. That they were lawfully married on the 30<sup>th</sup> day of November, 2006. That they were issued with Certificate of Matrimony dated 16<sup>th</sup> day of December, 2006. That the Petitioner

and the Respondent co-habited in Abuja, Federal Capital Territory. The Petitioner states that the Respondent is deceitful, treacherous and lies, that the Respondent is no more in love with her, based on that he put up an attitude. That the marriage has not been blessed with children. That they both could not live peacefully, and the marriage has broke down irretrievably. It is the claim of the Petitioner that the Respondent's behavior is one which she cannot reasonably be expected to live with as it will have a negative impact on her lifestyle and her overall wellbeing which she fears for. The Petitioner states that the Respondent is a schemer because he got married to her for what he could get and when the Petitioner lost that source of income the Respondent started scheming on how to get out of the marriage by putting up some silly attitude which affected the Petitioner emotionally and psychologically. The Petitioner states that the Respondent and his family have no regard for her because she has not given birth. The Petitioner has no love or harbors any feeling for the Respondent anymore. That the Respondent's two younger siblings were constantly insulting her, yet the Respondent did nothing about it. One of the Respondent's siblings went as far as fighting with the Petitioner by pushing her in the house and that same sibling further went on to post on the petitioners facebook page that she is the witch that is causing havoc in the family.

In support of the petition, the petitioner filed a verifying affidavit, a witness statement on oath and a certificate relating to reconciliation.

Upon being served with the petition and other accompanying processes. At the hearing on the 08<sup>th</sup> July 2021, the petitioner was led in chief by learned counsel to the petitioner, she adopted her statement on oath. The wedding certificate of covenant Assembly Mission dated 16<sup>th</sup> December 2006 was tendered and admitted in evidence through her.

The Respondent on the other hand was not present at the hearing neither did he file an answer to the petition nor was he represented by a legal counsel. Hence the Respondent's case was foreclosed after he failed to put up appearance in court.

Learned counsel to the petitioner in his written address dated 8<sup>th</sup> October 2021 formulated a lone issue for determination to wit:

***"Whether considering the evidence and circumstances of the petition that the marriage has broken down irretrievably, thereby conceding to the decree of the dissolution of the marriage, this Honourable court can grant the decree for dissolution of marriage?"***

On the lone issue above, learned counsel to the Petitioner submitted that the marriage has broken down irretrievably. Counsel relying on the deposition of the Petitioner argued that the petitioner no longer have love for the Respondent, counsel cited **OKWUEZE V. OKWUEZE (1989)5 SC 186 at page 201** to the effect that the Supreme Court allowed a dissolution of marriage on ground of lack of love by the two consenting parties. Learned counsel cited the provision of Section 123 of the Evidence Act 2021 to the effect that the admission and concession of the Respondent makes the petition non

contentious. He relied also on **IBRAHIM VS IBRAHIM (2007) 1 NWLR (PT. 1015) page 383. MR. INNOCENT UGWUMBA ELUWA V. MRS FLORENCE OGADINMA ELUWA (2013) LPELR – 22120**

Learned Counsel contended that the Petitioner is not obligated to establish all requirements for an order of dissolution as provided under Section 15(2) of MCA, but one.

On the whole, learned counsel urged the court to grant a decree of dissolution of marriage between the parties.

I have perused the evidence before me both oral and documentary. It is my humble legal view that this petition raises a lone issue for determination.

*Whether the Petitioner has placed sufficient evidence before this honourable court to entitle the grant of the reliefs sought?*

With respect to the relief of dissolution of marriage the law is fairly settled that no marriage will be dissolved merely because the parties have agreed that it be dissolved as marriage is a very important institution and it is the foundation of a stable society the policy of law therefore is to preserve the institution of marriage. That is marriages will not be dissolved on agreement of the parties to it.

A decree for dissolution of marriage would therefore be granted if the petitioner has proved that the marriage had broken down irretrievably and that the petitioner finds it intolerable to live with the Respondent. See Section 15 of the Matrimonial Causes Act, **DAMULAK V. DAMULAK (2008) 8 NWLR (PT. 874) P 651,**

**OLABIWONU V. OLABIWONU (2014) LPELR – 24065.**

Therefore by the Provisions of Section 15(2) of the Matrimonial Causes Act, the Petitioner at the hearing must satisfy the court by evidence of the allegations put forward by the petition See **OMOTUNDE VS OMOTUNDE (2000) LPELR – 10194.**

In the instant case, the petitioner adduced evidence to the satisfaction of the court that the Respondent's behavior is one which she cannot be reasonably be expected to live with him. The petitioner avers further that the Respondent is a drug addict and has been habitually so intoxicated, being high on such drug. The Respondent did not controvert or challenge this assertions neither did he file an answer to the petition to deny the allegations against him. Consequently, it is hereby ordered as follows:

1. I hereby pronounce decree nisi dissolving the marriage celebrated between the petitioner and the Respondent held at the Covenant Assembly Mission Inc with certificate on the 16<sup>th</sup> December 2006 on the grounds that the marriage has broken down irretrievably and both parties find it intolerable to live with each other. The decree nisi shall be made absolute after a period of three months from the date of this pronouncement, unless sufficient cause is shown to the court why the decree nisi should not be made absolute.

**Appearances:**

Parties present- Petitioner in court

I.T Agantem for the petitioner.

Resdpondent is absent, not represented by any legal counsel.

Judgment read in open court.

**Signed**

**Presiding Hon Judge**

**12/01/2022**