

**IN THE HIGH COURT OF JUSTICE OF THE F.C.T.**

**IN THE ABUJA JUDICIAL DIVISION**

**HOLDEN AT KUBWA, ABUJA**

**ON MONDAY THE 4<sup>TH</sup> DAY OF JULY, 2022**

**BEFORE HIS LORDSHIP: HON. JUSTICE K. N. OGBONNAYA**  
**JUDGE**

**SUIT NO.: FCT/HC/PET/152/2021**

**BETWEEN:**

**MRS. SOPHIE EMODI**

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**PETITIONER**

**AND**

**MR. EMMANUEL CHUKWUNONSO EMODI ---} RESPONDENT**

## **BENCH JUDGMENT**

In this Petition for the Dissolution of marriage between Mrs. Sophie Emodi – Petitioner and Mr. Emmanuel Chukwunonso Emodi – Respondent, the Petitioner had ensured that the Respondent is served with the Petition which was filed on the 24<sup>th</sup> of March, 2021. Later, on the 19<sup>th</sup> of November, 2021 she sought for an Order to amend some paragraphs of the grounds for the Petition.

According to the Petitioner, the Respondent has made her life so miserable that she feels there is no point to continue with the marriage. To her, the marriage has broken down irretrievably. She has lived apart with the Respondent for more than two (2) years before the filing of this Petition.

That since marriage the Respondent had behaved in such a way that she is not reasonably expected to continue with the marriage. That the Respondent had battered, insulted, assaulted and abused her severally and had meted out inhuman treatment to her. That the Respondent had threatened on several occasions to snuff life out of her. She had shown in her evidence the smashed Infinix Phone, picture of the smashed windscreen of the vehicle – Toyota Corolla. She had also attached Marriage Certificate evidencing her marriage to the Respondent sometime in 2010 at Benin, Edo State – EXH 1.

She has been with the Three (3) Children of the marriage – Two (2) boys and One (1) girl. They have been in her custody since she stopped living in the same house with the Respondent. The Children are now aged 11, 9 and 6.

She had also alleged that the Respondent always ask for the return of the Bride Price paid for the marriage which is not an issue under Matrimonial Causes Act (MCA). But the mere demand for that has shown that the marriage has broken down irretrievably.

On the issue of custody, she wants the Respondent to have full visitation right. But he should contribute to the upkeep of the Children and their educational needs. That he can have access to the Children but until they are 15 years each before they can go to the Respondent's place. She was not specific as to the amount the Respondent should contribute as to the welfare of the Children.

The Petitioner had complained of the abuse by the Respondent.

The Respondent paid for the first son but stopped after some time. He lost his job and had not had a stable job since then. The Petitioner wants the marriage dissolved.

The Court ensured that the Respondent was duly served with the Original Petition and the Amended Petition. He was served Hearing Notices too. The Court had ordered that he come to Court but he refused to come. He had a Counsel representation – Mose Batwe who came to Court on the 17<sup>th</sup> February, 2022. He had talked about settlement in that they had approached the Petitioner to settle. The Court was glad and encouraged the Petitioner Counsel and the Respondent Counsel to ensure parties explore settlement. But it failed as the Petitioner Counsel had reported today in that the Petitioner reached out to the Respondent but he refused to go into amicable settlement of the issues. That is why the Petitioner came to Court to open and adopt her Statement on Oath.

Since the Respondent had said that he is not interested to resolve the issues, there is nothing anyone can do.

Again, it is imperative to state that there is no Answer or Cross-Petition in this case. The Court had given ample time for the Respondent to defend the Petition but he failed to do so. The Court cannot wait in perpetuity.

Facts unchallenged are deemed admitted. This Petition and the facts upon which is predicated are not challenged. The Court deems it as accepted. Besides, in any Petition matter, once there are facts to support that the marriage has broken down irretrievably, the Court listens to it.

In this case, the Petitioner had stated that. She had tendered document evidence of the marriage and abuse in the form of the Marriage Certificate and the smashed Infinix Phone as well as picture of the smashed windscreen of her vehicle – Toyota Corolla. Most importantly, the couple had lived apart for over two (2) years before the filing of the Petition and ever since. There is no doubt that the marriage has broken down irretrievably.

This Court, based on those facts hereby DISSOLVES the marriage between the Petitioner – Mrs. Sophie Emodi and the Respondent – Mr. Emmanuel Chukwunonso Emodi which was celebrated on the 25<sup>th</sup> of September, 2010 at Benin City, Edo State. The reason for the dissolution is because the marriage has broken down irretrievably, the parties has been in desertion for over two (2) years and severance of Conjugal Right, cruelty and batter etc.

On Issue of custody of the Three (3) Children of the marriage, this Court hereby Order as follow:

That the Children, given their ages 11, 9 and 6, should continue to be in the custody of the Petitioner. BUT the Respondent should have UNRESTRICTED access to them both in their mother's house and at school. The unrestricted access shall be at reasonable times.

The Respondent should NOT in any way create any ugly scene or disrupt the peace and quietness of the Petitioner both in her place of abode and work place.

The Children should spend One (1) weekend per month with the Respondent. The Petitioner should also pick the

Children up in the evening after dropping them in the morning.

The Respondent should contribute to the School Fees of the Children according to his means which should be at the range of 40% – 60% ratio.

The Respondent should have access to the Children during school resumption also and contribute to the payment of their School Fees on a 50% – 50% basis.

During school holidays, the Children should visit and spend at least Two (2) weeks with the Respondent in his place of abode. The girl child visitation for now should be supervised.

If the parties fails to come together as husband and wife after Ninety (90) days, this Order becomes absolute. So this Court Orders.

**This is the Judgment of this Court.**

**Delivered today the \_\_\_ day of \_\_\_\_\_ 2022 by me.**

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