

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

**BEFORE HIS LORDSHIP: HON. JUSTICE MUHAMMAD S.
IDRIS**

COURT: 28

Date:- 2ND NOVEMBER,2022

FCT/HC/CV/1798/2022

BETWEEN

**UJU NWAKAMA-----
(Trading under the name
& Style of Uju Okoye & Co)
And**

PLAINTIFF

**1. ROOTSYNC ENTERTAINMENT
PRODUCTIONS LIMITED }
2. MR. OBIORAH ANTHONY }**

DEFENDANTS

JUDGMENT

This undefended writ of summons dated 27th May,2022 which was accordingly served on the Defendants as required by the rules of this Court. Having served the Defendants appropriately same refused or neglected to put up defence by filing their notice of intention to defend the action nor have they filed counter affidavit as required by the rules. This application brought by the Applicant is governed by order 35 of the rules of this Court. Where an application in form 1 as in the appendix

is made to issue a writ of summons in respect of a claim to recover a debt or liquidated money demand supported by an affidavit stating the grounds on which the claim is based and stating that in the deponent's belief there is no defence to it. A judge in chambers shall enter the suit for hearing in what shall be called the undefended list. Having complied with the above requirements same is praying for the following reliefs:-

1. An order of this Court mandating the Defendant to pay the Plaintiff the sum of N11,000,000.00 being the principle debt or amount unpaid as an outstanding balance in respect of funds given to the Defendant by the Plaintiff.
2. An order of this Court compelling the Defendant to pay the Plaintiff the sum of ₦1,000,000.00 as special damages and cost for expenses incurred for prosecuting this case.
3. An order of this Court directing the Defendant to pay the Plaintiff 10% on the judgment sum from the day the judgment is delivered until the whole judgment sum is liquidated. The application of the Plaintiff is supported by a 28 paragraph affidavit deposed to by the Claimant himself and also 11 exhibit were attached to the processes filed by the Claimant.

In compliance with the rules of this Court a written address was also filed same was dated the 26th May, 2022. As can be seen from the affidavit attached to the

writ, even though I did not intend to reproduce same in this judgment either wholly or in part nevertheless I am fully convince that this action is one of those that can be brought under the undefended writ of summons procedure. I have gone through the affidavit in support paragraph by paragraph I also critically looked at the 11 annexures attached to the written address I am of the strong view that the Claimant have satisfied all the requirements leading to judgment. I would like to place on records that the Defendant having been served with the writ and also same having exhausted his 5 days as required by the rules same refused to enter appearance neither did he filed any notice of intention to defend the case. In the interest of justice and fair play 3 different adjournments where ordered by the Court at the instance of the Defendants similarly the Defendants was served with hearing notice three consecutive adjournments. But still same refused to appear or to even file his notice of intention to defend the action brought against him. I have also seen how the principal sum was given to the Defendants instalmentally and also on the other hand the undertaken made by the same which the Defendant failed to honour.

It is pertinent in this judgment to look at the procedure recognized by the rules of this Court regarding this application undefended list. In exercising its discretionary powers under the "undefended list"

proceeding the trial Court has an important part to play and its jurisdiction in this respect. Thus, in consideration of an action brought under the undefended list by the Plaintiff the trial Court is faced with a decision whether to hear the case or transfer it to the general cause list. It must have to begin with a careful scrutiny of the Plaintiff claim and be satisfied that the action is not contentious and one that should be placed on the undefended list. The Court owes it a duty to scrutinize the claims and the verifying affidavit with attached documents.

If any to ensure that the claim is indeed suitable to be heard under undefended list procedure otherwise it should be transferred to the general cause list see ***INTERNATIONAL BANK VS BRIFIRM LTD SUIT NO. SC 67/200*** . Also cited in ***(2012) 13 NWLR page 1***. The claimant in this case has done the needful when a party files a suit under the undefended list and support it with an affidavit disclosing the facts of its case, the Defendant is required by law to file a notice of intention to defend together with a supporting affidavit to disclose his defence. As can be seen from above the Defendant have not file anything moreso the case was adjourned three consecutive times all at the instance of the Defendant from the process filed by the Claimant and the failure on the part of the Defendant to file his notice of intention to defend within the time stipulated by the rules of this Court ,and he is not let in

to defend thereafter then the suit shall be heard as undefended suit, and judgment given therein, without calling upon the Plaintiff to summon witnesses before the Court to prove his case finally see **MC INV. LTD VS C .I. & CM LTD SUIT NO. SC 288/2004 .Also CITED IN (2012)12 NWLR page 1** from the above judicial authorities the claim of the Claimant is for a money liquidated demand/debit. The writ filed by the Claimant is in force with the requirement of the rules of this Court. Accordingly judgment is hereby entered in favour of the Claimant against the Defendant prayers 1 and 3 is hereby granted.

HON. JUSTICE M.S IDRIS
(Presiding Judge)

Appearance
Onyinye Egbujo:- For the Claimant.