

IN THE HIGH COURT OF JUSTICE OF THE F.C.T.
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT KUBWA, ABUJA
ON TUESDAY, THE 4TH DAY OF MARCH, 2020
BEFORE HIS LORDSHIP: HON. JUSTICE K. N. OGBONNAYA
JUDGE
SUIT NO.: FCT/HC/PET/285/16

BETWEEN:

MR. FRANCIS IKECHUKWU ONYEARUGBULAM-----PETITIONER

AND

MRS. MARRIET ADAEZE ONYEARUGBULAM -----RESPONDENT

BENCH JUDGMENT

This matter predicated on matrimonial case was instituted since the 28th day of October, 2016.

In it the Petitioner Mr. Francis Ikechukwu Onyearugbulam had approached this Court for the dissolution of the marriage between him and Mrs. Marriet Adaeze Onyearugbulam.

According to the Petitioner the marriage has broken down so irretrievably that the Petitioner finds it very difficult to continue living with the Respondent. Hence he applied for the dissolution of the said marriage.

The marriage has only one child, female aged 6 years as at the time the petition was filed in 2016.

As at the 18th day of October, 2016 the Petitioner and Respondent had lived apart for close to nine (9) years from September 30th 2011 till the 18th day of October, 2016.

The Petitioner alleged that Respondent moved out of the matrimonial house without any cause and refused to move back after all entreaties and solicitation. According to Petitioner, the Respondent said that the marriage is over between them.

In addition to the dissolution of the marriage, the Petitioner also seek custody of the child of the marriage. He promised to be fully responsible for the maintenance and upkeep of the child and her education and to bear the cost as appropriate.

The Respondent was served with the Petition and Hearing Notices were served on her from inception until the 28th day of February, 2020 when she was served with the Hearing Notice for today's proceeding and the Final Address filed by the Petitioner Counsel.

It is imperative to state that the Court had ordered that she be notified about the matter being reserved for final address.

Ordinarily she ought going by the Rules of MCR to have filed her Final Address and served on Petitioner before the

Petitioner will file and serve her. She did not do so. Just like she did not enter appearance and or file any answer to the petition, the Court hold that she has no answer to the petition.

Unchallenged issues are deemed admitted.

That being the case, this petition is unchallenged and facts contained therein especially on issue of desertion going by S. 15 (2) MCA is deemed admitted since the parties have lived apart for close to nine (9) years. This Court has no reason not to grant the petition.

That being the case the marriage between the Petitioner Mr. Francis Ikechukwu Onyearugbulam and Respondent Mrs. Marriet Adaeze Onyearugbulam is hereby DISSOLVED.

On the issue of custody of the child the Court hereby Order that the custody of the child of the marriage is given to the Petitioner who has since the 30th day of September, 2011 being with the child especially so as the Respondent never asked for custody to be given to her.

The Respondent can have access to the child if she so wish but the access and visitation shall be with the notification and in the presence of the Petitioner.

Due Notice must be given to the Petitioner before the date of visitation and access.

Upon the attainment of the age of eighteen (18) years, the child can decide on her own where she will and with whom she will stay.

Upon the expiration of this Order Nisi made today for the dissolution of the marriage between the Petitioner and the Respondent today the 4th day of March, 2020 this Order Nisi SHALL automatically be made absolute.

This is the Judgement of this Court.

Delivered today the _____ day of _____ 2020 by me.

K.N. OGBONNAYA
HON. JUDGE