

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

IN THE ABUJA JUDICIAL DIVISION

HOLDEN AT ZUBA, ABUJA

ON FRIDAY THE 15TH DAY OF MARCH, 2024

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

SUIT NO.: FCT/HC/PET/025/2019

BETWEEN:

IBRAHIM OLADELE ISMAILA ----- PETITIONER

AND

ELIZABETH EUNICE IBRAHIM ISMAILA ----- RESPONDENT

JUDGMENT

On the 4th February, 2020 the Petitioner, Ibrahim Oladele Ismaila approached this Court with a Notice of Petition for the Dissolution of the marriage contracted between him and the Respondent, Elizabeth Eunice Ibrahim Ismaila in that the marriage has broken down irretrievably and he is no longer interested to be married to the said Elizabeth. The marriage was contracted on the 10th June, 2014. It was solemnized at St. Theresa Catholic Church Madala, Niger State. The marriage is blessed with 3 Children – Rahma Ibrahim, Amir Ibrahim and Aalima Ibrahim. Meanwhile, the Petitioner is an ardent Muslim while the Respondent is a Christian.

According to the Petitioner the Respondent had been very cruel to him and had deceived him to marrying him under the Marriage Act, deceiving him that she need a Marriage Certificate to enable her process her documents in her office.

The Petitioner as well as the Respondent wants the custody of the Children.

To prove and buttress this allegation of cruelty, the Petitioner tendered picture of him with blister on his back which was as a result of hot water and pepper which the Respondent poured on his back sometime in 2018. He tendered the Marriage Certificate too as well as Receipts evidencing payment of school fees for the Children of the marriage.

According to the Petitioner, the Respondent had been truant, has no respect for him as a husband. She had abandoned the matrimonial home and the Children and left for an undisclosed place prior to the filing of the Notice of Petition. The Respondent did not deny that but claimed that the Petitioner was the one who pushed her out as a result of the beating. The Petitioner tendered a document (Order) from the Magistrate Court evidencing the incidence of the hot water and pepper, showing that the Respondent was arrested and taken to Court on the incident. But the Petitioner later withdrew the case and forgave the Respondent thinking that she will change. But that never happened.

Initially the Petitioner was with the Children. Later the Respondent surfaced, pretending to have changed, the Petitioner allowed her access to the Children. Later she, the Respondent took the Children away to an unknown place and changed their school without notifying the Petitioner. The Respondent did not deny that fact.

Both parties testified fully. The Respondent tendered documents too – pre-nuptial document, Marriage Certificate and Receipts showing she also paid school fees for the Children. She wants joint custody and that the Petitioner should contribute 50% on all the welfare, school fees, feeding and medical of the Children.

The Respondent wants custody but that the Petitioner can have access to the Children any time. That they can stay with the Petitioner during the holiday period while they stay with her during the school period.

The Petitioner wants full custody and the Respondent to have visitation rights. He wants to carter fully for the Children within his means and pays all fees and welfare too.

Both parties want the dissolution of the marriage.

COURT

Once a marriage has been contracted under the Marriage Act and any of the parties is fade up, it is incumbent on such party to file Notice of Petition for its dissolution. That is what the Petitioner did in this case. The party must show

that the marriage has broken down irretrievably and that it is not possible for him/her to go on with the marriage. The person must also state facts in support.

In this case, the Petitioner has based this Petition on cruelty and deceit in that the Respondent tricked him into going into the marriage. That the marriage was based on fraud as due procedure was not followed according to law. Again that the Respondent is very cruel as shown in the photograph showing blisters on his body based on the hot water and pepper poured on him by the Respondent on 17th August, 2018.

The Respondent had stated that the Petitioner also beats her but did not substantiate that with any concrete evidence.

It is the law that once there is a proof of desertion for up to one year and severance of conjugal right, that the Court can dissolve a marriage especially where there is no connivance, condition or collusion. In this case there is proof of desertion. There is proof of severance of conjugal rights. There is proof of cruelty – hot water incidence. Besides, both parties are no longer interested in the marriage. Besides, the Court has no power to force the parties to continue with the marriage against their will.

That being the case, this Court hereby DISSOLVES the marriage purportedly contracted by the parties on the 10th June, 2014 same having broken down irretrievably today the 15th day of March, 2024.

The parties had spoken extensively to the Court on their custody plans for the Children of the marriage.

The Court hereby Order that given the ages of the Children, that there should be joint custody in that the Children will spend the school period with their mother, the Respondent and they should spend all the holidays period with their father, the Petitioner.

The Petitioner should also have access to them during school day by visiting them.

The Respondent shall allow the Petitioner access to the Children during school period.

The Petitioner is to also visit the Children at school and attend PTA meetings and open day meetings too.

On finance as suggested by the Respondent, both parties should contribute 50% - 50% on issue of school fees, feeding, accommodation and medical for the Children according to their means.

This is the Judgment of this Court.

**Delivered today the ___ day of _____ 2024 by
me.**

K.N. OGBONNAYA
HON. JUDGE