

**IN THE DISTRICT COURT OF BAUCHI STATE  
IN THE BAUCHI JUDICIAL DIVISION  
HOLDEN AT SMALL CLAIMS COURT NO 2 BAUCHI  
BEFORE HIS WORSHIP ZAINAB M SHUAIBU (MRS)**

**SUIT NO SCCBH/65/2025**

**BETWEEN**

**MUHAMMAD KABIR MUSA ..... CLAIMANT**

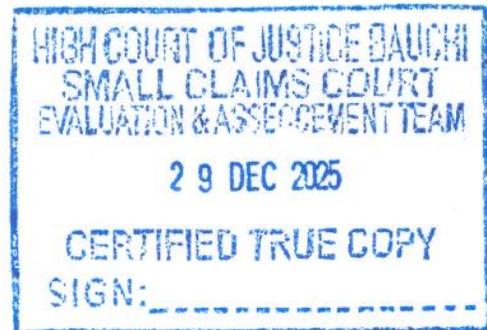
**AND**

**MALAM IDRIS ..... DEFENDANT**

CLAIMANT: present

DEFENDANT: absent

APPEARANCES – A U MAGAJI for the claimant



**JUDGEMENT**

The claimant commenced this suit under the Bauchi state practice direction on small claims court no 2 of 2022, he fill and filled form SCA 2 and 3 dated 5<sup>th</sup> day of August 2025, the claimant claim against the defendant is the sum of one million five hundred and eight five thousand naira being the amount he borrowed the defendant.

The defendant in this suit was served via substituted means dated 4<sup>th</sup> day of September 2025 as deposed to by the bailiff of this Honorable.

On the 12<sup>th</sup> day of August when the matter came up for hearing the defendant was absent despite being served with the hearing notice, Hearing commenced.

CW1 – by name KABIRU MUSA affirm and testified to the effect that the defendant requested for the sum of ₦1,585,000 (One million five hundred and eight five

thousand naira) I transferred to his account all effort to get back my money from the defendant prove abortive.

COURT – CW1 was stood down for cross examination

CW12 – by name MUHAMMAD KABIR who happen to be the claimant in this case affirm and testified to the effect that the is into the business of selling maize the defendant bought maize from me on credit on the ground that in a week time he will pay back the money, he came and requested for another maize, on the ground that he has some issues with his customers the claimant told him he also under go same issues.

The total sum of the said amount for the maize is ₦1,585,000 (One million five hundred and eighty-five thousand naira) only.

All effort to get back my money proved abortive.

A U MAGAJI – this is the case the case of the claimant

COURT – CW2 is hereby stood down for cross examination I ordered that hearing notice should be served on the defendant.

On the 19<sup>th</sup> day of August 2025 when the matter came up for cross examination the defendant despite being served with the originating process to come and cross examine cw1 and cw2 was still absent no reason what so ever for his absent.

Learned counsel to the claimant A U MAGAJI ESQ made an oral application that the right of the defendant be foreclosed from cross examine cw1 and cw2 same was granted by this court as prayed.

COURT – The matter was adjourned for defense I ordered that hearing notice should be served on the defendant and same was executed on him as seen on the affidavit of service deposed to by the bailiff of this honorable court.

On the 25<sup>th</sup> day of August 2025 when the matter came up for defense the defendant as usual was absent learned counsel to the defendant made an application that the right of the defendant for defense be close, same upheld.

## **COURT OPINION**

Having gone through form SCA 2 and 3 filled by the claimant in this suit and I have also taken into consideration the fact and circumstance of this case before the court. This Hon court formulate lone issue for determination thus;

‘Whether the claimant has proved his case to the balance of probability to be entitled to judgment’

In Nigeria civil cases, the burden of proof rests on the party who asserts a fact that a court would rely on to give judgment, this burden is determined by the balance of probabilities, meaning the claimant must prove their case more likely true than not, the burden is not static and can shift to the other party, typically the defendant, if the initial evidence from the claimant establishes a presumption in their favor. This court refer itself to the case of Fadlatah vs Arewa textile ltd (1997)8 NWLR ( part 518) 546

SECTION 131 OF THE EVIDENCE ACT 2011 states that any person who desire any court to give judgment as to any legal right or liability dependent on the existence of facts shall assert and prove that those facts exist see the case of U . I .C LTD VS T A HAMMOND NIGERIA LTD (1998) NWLR (PT 565) 340

It is in the record of this court CW1 testified that the claimant gave the defendant maize worth #1,585,000, the defendant neither return back the maize nor refund the money to the claimant and also CW2 who happens to be the claimant told the court he gave some maize to the defendant worth #1,585,000

The above piece of evidence by cw1 and cw2 remain unshaken, controverted discredited during cross examination.

The law is equally trite that un contradicted or discredited evidence the court can safely rely on it for just determination of a matter before it see the case of OBINECHE VS AKUSOBI (2010) 12 NWLR 383

The defendant failed to defend the claim of the claimant despite the ample time and opportunity giving to him the position of the law remains inviolate to the effect that when ample time and opportunity has being giving or is being giving to a party

as in the instant case he can not be heard complaining that his right of fair hearing has being deprived. The court Refer itself to the case of UMA VS EFFIOM (2013) LPELR – 21407 (C A)

The law is settled that failure to defend the claim of the claimant is tantamount to an admission admitted facts need no further proof see section 123 of the evidence Act 2011 as amended.

To my own view it is clear and very certain that the scale of justice tilt to the side of the claimant as he has proof his case based on the preponderance of evidence and deserve the judgment of this court in its favor.

On the whole the lone issue for determination is hereby resolved in favor of the claimant against the defendant the following orders are hereby made;

- (1) AN ORDER against the defendant to pay the sum of ₦1,585,000 (One Million Five Hundred and Eighty-Five Thousand Naira) only being the amount for the maize
- (2) AN ORDER against the defendant to pay the sum of ₦50,000 (Fifty Thousand Naira) as general damages to the claimant
- (3) Sum of ₦100,000 (One Hundred Thousand Naira) as cost of action

**APPEAL:** There is a right of appeal to the High Court of Justice Bauchi within 14 days from today

THIS CASE IS DECIDED TODAY BEING THE 15<sup>TH</sup> DAY OF AUGUST 2025

HIGH COURT OF JUSTICE BAUCHI  
SMALL CLAIMS COURT  
EVALUATION & ASSESSMENT TEAM  
29 DEC 2025  
CERTIFIED TRUE COPY  
SIGN: \_\_\_\_\_

ZAINAB M SHUAIBU (MRS)  
SENIOR MAGISTRATE 1  
*[Signature]* 15/08/2025