

**IN THE DISTRICT COURT OF BAUCHI STATE
IN THE BAUCHI JUDICIAL DIVISION
HOLDEN AT SMALL CLAIMS COURT (NO TWO) BAUCHI**

SUIT NO SCC/BH/20/2023

BEFORE HIS WORSHIP ZAINAB M SHUAIBU (MRS)

BETWEEN

JUMMAI IBRAHIM CLAIMANT

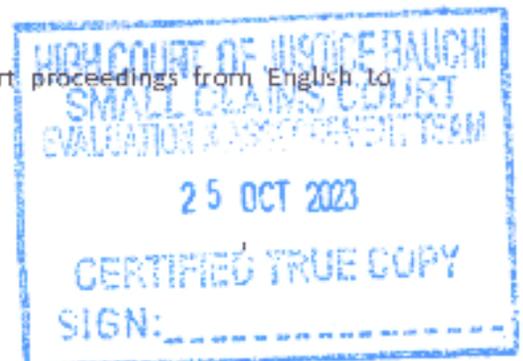
AND

HABU DALIBI YAHAYA..... DEFENDANT

CLAIMANT PRESENT..... Speaks Hausa

ALIYU TAFIDA SALEAffirm to interpret the court proceedings from English to Hausa

APPEARANCES none



JUDGEMENT

The claimant commenced this suit through the small claims court practice direction NO 2 of 2022 of Bauchi state, the claimant fill and filled form SCA 2 and 3 dated 28th day of July, 2023 and filed on the same day, the claimant in this suit claim against the defendant as follows;

- 1 - The sum of ₦ 67,000.00 only being the unpaid balance of the wrappers and other materials he collected from the claimant.
- 2 – The sum of ₦40,000.00 for general damage.
- 3 – Cost of action ₦ 10,000.00

The defendant was served with the originating process of this court by substituted means as showed in the affidavit of service dated 3 day of October 2023 deposed to by the bailiff of this honorable court ALIYU TAFIDA SALE.

The defendant never appeared in court, after being served with the originating process of this court. However, he elected or chose not to file anything or adduce evidence in challenge to that offered by the claimant.

The brief summary of the claimant case in this suit

CW1 – by name JUMMAI IBRAHIM of No 12 Tafawa Balewa road federal low cost Bauchi inform the court That sometime in July 2019, Habu Dalib Yahaya (i.e. the defendant) came to my shop located at wutin market here in Bauchi collected some wrappers, Shadda and material at the rate of #167,000.00 Only, later made the payment by paying the sum of ₦ 100,000.00 since then I couldn't get him on phone, I reported the matter at his place of work at civil defense office as there is no any positive outcome all effort prove abortive. That is why I decided to institute the action before the small claims court.

After the conclusion of the evidence in chief (CW1) this matter was later adjourned to the 9th day of October 2023 for cross examination and defense.

On the 9th day of October 2023 when the case was slated for cross examination and defense the defendant was absent and unrepresented.

When the defendant closed his case, no defense had been filed in response to the claimants claim.

Thereafter the claimant made an application before the court to close the right of the defendant for cross examination and defense, same was upheld and the matter adjourned to the 19th day of October 2023 for judgement.

COURT

It is an elementary principle of law that civil suits are determined upon preponderance of evidence and balance of probability. He who assert must prove in order to succeed in his claim may I refer the court to the case of ISEOGBEKUN VS ADELAKUN (2013) P141.

The law is settled that where there is unchallenged and un-contradicted evidence adduced by a party, the court must act on such evidence except where the evidence in itself is self-defeating and unacceptable. See the case of DAN A PETROLEUM & GAS LTD & ANOR VS JIGAWA STATE GOVERNMENT & ORS (2022) LPELR-57334 (CA) thus the court is duty bound to examine the facts of the case and then see whether it entitle the claimant to the relief(s) sought.

Article 8 (2) of the Bauchi state practice direction on small claims court no 2 of 2022 empowers this honorable court to enter judgement in favour of the claimant where the defendant fails to appear and there is proof of service and the claimant has proven his claim.

In this instant suit, there is proof of service of the originating processes and hearing notice on the defendant, as such this court is satisfied that the defendant was aware of the pendency of this suit but neglect to appear in court to defend same.

Having duely considered the evidence presented in support of the claimants claim and being satisfied with the facts, this honorable court therefore finds that the claimant has adduced sufficient evidence to entitle him to a grant of her claims.

Accordingly, judgement is entered in favour of the claimant and it is hereby ordered as follows;

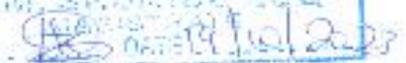
1 – The claimant is entitled to recover the sum of ₦ 67,000.00 (sixty-seven thousand naira only) being the remaining balance for the purchase of the shadda, wrappers and materials

2 - The sum of #20,000.00 for general damage

3 – The sum of #10,000.00 is awarded in favour of the claimant as cost of this action and I SO HOLD.

This case is decided today being 19th October, 2023 there is right of appeal to High Court of Justice Bauchi within 14 days by the aggrieved party.

HIGH COURT OF JUSTICE BAUCHI
SMALL CLAIMS COURT
EVALUATION & ASSESSMENT TEAM
25 OCT 2023
CERTIFIED TRUE COPY
SIGN: 

THE CHIEF MAGISTRATE COURT
GERAUCHI STATE
Z.M. SHUAIBU ESQ
SIGN:  DATE: 19/10/2023

ZAINAB M SHUAIBU(MRS)
(SENIOR MAGISTRATE)