

**opponent.**

The truth is that it mattered not whether the Appellants commenced the action by a petition under the Matrimonial Causes Rules or by a writ of summons under the High Court Civil Procedure Rules. This is particularly more so as the claims were simply for maintenance and welfare of wife and children of a marriage, and were not co-joined with a claim for dissolution of marriage or nullity of marriage. In Tabansi Vs Tabansi (2008) LPELR 4365(CA) , the Court stated that the claims dealing with the education, maintenance and upkeep of a child are serious and sensitive matters which should not be hamstrung by technicalities.

What was important, in these circumstances, was whether the mode of commencement brought out the issues in contention between the parties. This Court has severally held that once the procedure

used in a matter brings the issues in contention into focus, it will not be of no moment that the procedure used was wrong. In Federal Government of Nigeria Vs Zebra Energy Ltd (2002) LPELR-3172(SC ), Belgore JSC (as he then was), at page 33D stated thus:

**"Procedure is a guide to smoothen**



**passage of suit; to direct the parties what to do and to guide the Court to arrive at the justice of a case The Court shall never be shackled by procedure; case is not made for procedure, it is the other way round. Once the procedure employed has brought into focus the issues the parties contest and there is no miscarriage of justice it will not**

**matter that the procedure is not the correct one.**

In U.T.C. (Nig) Ltd Vs Pamotel (1989) 2 NWLR (Pt 103) 244 at 298 it was held by this Court that rules of procedure are made for the convenience and orderly hearing of cases in Court. They are made to help the cause of Justice and not to defeat justice. The rules are therefore aids to the Court and not masters of the Court. For Courts to read rules in the absolute without recourse to the Justice of the cause, to me will be making the Courts slavish of the cause. This is certainly not the *raison detre* of the rules of Court Also, in Nwosu Vs Imo State Environmental Sanitation Authority (1990) 2 NWLR (Pt. 135) 688 at 717 , Nnaemeka Agu, J.S.C said:

**As we have stated several times the days when the parties pick their way in the**



**Court through naked technical rules of procedure the breach of which does not occasion a miscarriage of justice are fast sinking into the limbo of forgotten things.**

In Taiwo Vs Federal Republic of Nigeria (2022) 13 NWLR (Pt 1846) 61, this Court held that a procedural irregularity is not a factor that would justify the setting aside of a verdict or decision unless a miscarriage of justice is established as propelling that decision of the Court.

This Court has maintained over the years that the sole purpose of a Court to do substantial justice between the parties that come before it for adjudication of disputes and not to adhere to technical issues that becloud the justice of a matter as such adherence to technicalities to the detriment

of substantial justice inevitable leads to injustice State Vs Gwonto (1983) 1 SCNLR 142, Marine Management Associates Inc Vs National Maritime Authority (2012) 18 NWLR (Pt 1333) 506, Uwazuruike Vs Attorney General, Federation (2013) 10 NWLR (Pt 1361) 105, Mfa Vs Inongha (2014) 4 NWLR (Pt 1397) 343, Frozen Foods Nigeria Limited Vs The Estate of Oba John Agboola Ojomo (2022) LPELR 57815(5C), Koko Vs Koko



**(2023) 13 NWLR (Pt 1901) 249.**

In the immortal words of my Noble Lord, Oputa, JSC, in Bello Vs Attorney General, Oyo State (1986) 5 NWLR (Pt 45) 828 at 886

**F-G:**

**The picture of law and its technical rules**