

**IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY**  
**IN THE ABUJA JUDICIAL DIVISION (APPELLATE DIVISION)**  
**HOLDEN AT COURT 14 APO-ABUJA ON THE 27<sup>TH</sup> DAY OF**  
**SEPTEMBER, 2016**

**BEFORE THEIR LORDSHIPS: HON. JUSTICE U. P. KEKEMEKE (PRESIDING JUDGE)**  
**HON. JUSTICE V.V. VENDA (HON. JUDGE)**  
**APPEAL NO: CVA/11/15**

**COURT CLERK: AMINU ZAKARI**

**BETWEEN:**

**MR. ADEGOKE ADEKUNLE GABRIEL .....PLAINTIFF.**

**AND**

**MR. KUNLE AJIBADE .....DEFENDANT.**

**RULING**

This application is for extension of time within which Appellant may file an Appeal against the Interlocutory Ruling or decision of the Trial Court delivered on 09/02/15 and an Order deeming the Notice of Appeal already filed and served dated 09/02/15 as properly filed and served.

Learned Counsel to the Appellant adopted the 8 paragraph Affidavit filed along with the application. The Respondent was served but did not react to the application. He prefers to leave it at the discretion of the Court. By Order 43 (6) of the Rules of Court the time prescribed in sub rules 1 – 4 may be enlarged at any time by the Court on such terms (if

any) as may seem fit after notice has been given to the Respondent by the Appellant of his application for enlargement of time.

It is now trite law that an averment which is not controverted is deemed admitted. The Affidavit evidence of the Appellant is not controverted.

In the circumstance, we shall exercise our discretion in favour of the Appellant. The Application succeeds and Order is granted as prayed. Suit is adjourned to the next Appeal Session for Hearing.

**HON. JUSTICE U. P. KEKEMEKE**  
**(PRESIDING JUDGE)**

**27/09/16**

**HON. JUSTICE V.V. VENDA**  
**(HON. JUDGE)**

**27/09/16**