

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT ABUJA
BEFORE HIS LORDSHIP: HON. JUSTICE V.V.M VENDI.
ON TUESDAY 18TH DAY OF JUNE, 2019

SUIT NO FCT/HC/CV/1212/18

BETWEEN:

O BUKKY INTEGRATED SERVICES LTD _____ PLAINTIFF

AND

1. DR. FATIMA TAGWAI AJI & 10 ORS _____ DEFENDANTS

JUDGMENT

By a Writ of Summons under the undefended list procedure dated and filed the 14th day of March, 2018, the Claimant seeks the following reliefs thus:

- (1) An Order directing the Defendants jointly and severally to refund the Claimant's sum of (N90,000,000.00) Ninety Million
- (2) Naira received by the Defendants for the supply of stone-coated roofing building materials which supply was never made since 12th April, 2016 till date.
- (3) 10% interest of the judgment sum until final liquidation of same.

(4) Cost of this action at (16,000,000.00) Sixteen Million Naira.

In support of the writ is a 38 paragraph affidavit deposed to by **Ebuka Ogbuke**, a director of the Claimant. He deposed that the Claimant is a registered company under the enabling laws of Nigeria which is into house roofing business among other objects.

That on the 5th day of April, 2016, on behalf of the Claimant, he met the Defendants represented by 1st Defendant in the office of the 1st – 11th Defendants at suites 027 and 028 Blue World Plaza, Plot 270, Aminu Kano Crescent, Wuse 11, Abuja where the 1st Defendant introduced herself to him as a business woman operating joint business with 2nd – 11th Defendants ranging from import of goods, house roofing materials inclusive among others.

That at the meeting mentioned above, 1st Defendant further informed him that apart from 2nd – 11th Defendants, the following person ie Mr. Valentine Okonkwo, Ikeh Igwe, Dan Chigozi Ameobi and Friday Moore, two of whom were present at the said meeting are also their business agents. At the said meeting, 1st Defendant put a call across to some of them who participated in the meeting where Claimant entered into a mutual contract with the 1st to 11th Defendants on verbal basis to supply Claimant at her office at A33, Area 11 Shopping Mall, Ahmadu Bello Way Abuja, stone-coated house roofing materials worth (N160,000,000.00 within a period of one month.

That the Defendants gave the Claimant various bank account numbers in the names of 2nd – 8th Defendants for payment of the said contractual sum.

The account numbers for the 2nd Defendant are 0065689292 with Diamond Bank Plc, 1013472365 with Zenith Bank Plc, 3256154012 with FCMB Plc and 5080096296 with Fidelity Bank Plc.

The bank account number for 3rd Defendant is 4011168808 with Fidelity Bank Plc, while that given in the name of 4th Defendant is 1014317513 with Zenith Bank Plc. The one supplied in the name of 5th Defendant is 1150024330 with Sky Bank Plc, while those supplied in the name of 6th Defendant are 2089053391 with U.B.A Plc, 2086372675, 2007778773 with Zenith Bank Plc, 0138435607 with GTB Plc, 3048457726 with First Bank Plc and 6052017668 with Fidelity Bank Plc.

The Defendants also gave account numbers in the name of 7th Defendant as 2170104142 with Zenith Bank Plc, 3506967018 with FCMB Plc, 3098446710 with First Bank Plc, 0025263953 with Unity Bank Plc, 0065211312 with Diamond Bank Plc and also supplied their business bank account in the name of 8th Defendant as 0023216181 with Unity Bank Plc.

That the Defendants instructed the Claimant to pay the above contractual sum of (N160,000,000.00) into any of the aforementioned bank accounts and as a result, Claimant paid the said money into the second Defendant's account number 0065689292 with Diamond Bank Plc on the 12th day of April, 2016 in two instalments of N80,000,000.00 totalling N160,000,000.00. He attached the Claimant's bank statement of account showing the said payment in two trenches as exhibit "A."

That the Defendants having received the above payment since 12th April, 2016 neither supplied the goods nor refunded the money inspite of repeated demands, and as a result, the Claimant through its solicitor wrote a petition to the EFCC, a copy of which is herewith attached as exhibit "B."

That upon arrest and investigation of some of the Defendants, the EFCC applied for an interim Order at the Federal High Court, Abuja freezing all the monies in the respective bank accounts of the Defendants listed in paragraphs 11 -17. A (CTC) of the order is attached as exhibit "C." That during the investigation by the EFCC, Diamond Bank wrote the commission and supplied Bank verification number (BVN) 2215966586 of the 2nd Defendant's bank account into which the said contractual sum was paid into, of which investigation also revealed that the said (BVN) number was linked with all the aforementioned bank accounts of the

Defendants. He attached the (CTC) of the said letter obtained from the records of the Federal High Court, Abuja as exhibit "D."

Further, the 6th Defendant also made written statement to the EFCC on the 4th and 5th of July, 2017 respectively wherein he admitted receiving the sum of N80,000,000.00 twice on the 12th of April, 2016 by the Defendants from the Claimant totalling N160,000,000.00. He attached a copy of the (CTC) of 6th Defendant's statement as exhibit "E." In the said exhibit, 6th Defendant further admitted being the sole signatory to all the Defendants bank accounts, and also admitted that the 9th Defendant is the chairman of the 2nd Defendant.

That 9th Defendant gave a standing order to the effect that any money received by second Defendant be transferred to 3rd Defendant's account, while 6th Defendant gave a detailed account of how Claimant's contractual fund was mismanaged and misapplied by the Defendants and how same was transferred in bits to different person contrary to the purpose of the supply of goods for which the money was paid.

Similarly, the 9th Defendant made written statements on the 15th, 16th and 17th days of August, 2017 before the EFCC which CTC is herewith attached as exhibit "F." In the said exhibit, 9th Defendant admitted himself, 1st, 6th, 10th and 11th Defendants of 2nd Defendant and also admitted receiving the said amount which he

promised to refund. Accordingly, he raised an FCMB Bank draft of N10,000,000,000.00 which copy is herewith attached as exhibit G. As a follow up, he further raised 6 different FCMB bank drafts of N10,000,000.00 each totalling N60,000,000.00 as part payment of Defendant's indebtedness to the Claimant. He attached copies of the said bank drafts as exhibits H1 – H6 respectively.

That the Claimant's money is fixed and a liquidated money demand to which the Defendants have no defence.

The Defendants did not file a defence to the suit nor cross-examined the Claimant.

Accordingly, the Claimant opened his case on the 6th of March, 2019 and informed the court that the claim is for the sum of N90,000,000.00 against the Defendants jointly and severally, while the cost of action is 10% interest of the judgment sum.

The writ is supported by a 38 paragraph affidavit deposed to by one **Ebuka Ogbuke** who is a director of the Claimant.

Attached to the said affidavit are 8 exhibits. He placed reliance on all the paragraphs of the affidavit and exhibits.

Claimants counsel argued that the claim is a liquidated money demand to which the Defendants have no defence. He cited the case of **FEDERAL REPUBLIC OF NIGERIA VS LAWANI (2014)**

ALL FWLR (pt. 712) 1752 where it was held that both civil and criminal matters can go on hand in hand.

He finally urged the court to enter judgment for the Claimant in the interest of justice.

The law is trite in cases under the undefended list procedure that once a Defendant fails to file a notice of intention to defend with a supportive affidavit showing a defence on the mrit within the time stipulated by law, the court, if it finds that the Claimant has made proved his case, enter judgment for the Claimant accordingly.

Thus in **IKEYI & ORS VS UDI L.G (2015) LPELR-40674 (CA)** the court held:-

---It is evident that when a case is entered on the undefended list or marked undefended as the case may be, the court has only one duty on the return date and that is to see whether the Defendant has filed a notice of intention to defend and an affidavit. If there is no such process filed by the Defendant within five days before the return date as prescribed by the rules, the court has no choice but to proceed to judgment...

In the FCT, the relevant Rules are the FCT High Court (Civil Procedure) Rules 2018 Order 35 rules 1, 3, 4 and 5 of the said Rules, 2018, provide as follows:-

- (1) Where an application in Form 1, as in the Appendix is made to issue a Writ of Summons in respect of a claim to recover a debt or liquidated money demand, supported by an affidavit stating the grounds on which the claim is based, and stating that in the deponent's belief there is no defence to it, the judge in chambers shall enter the suit for hearing in what shall be called the "Undefended List."
- (3) Where a party served with the writ delivers to the registrar, before 5 days to the day fixed for hearing, a notice in writing that he intends to defend the suit, together with an affidavit disclosing a defence on the merit, the court may give him leave to defend upon such terms as the court may think just.
- (4) Where leave to defend is given under this Rule, the action shall be removed from the Undefended List and placed on the ordinary cause list; and the court may order pleadings, or proceed to hearing without further pleadings.
- (5) Where a Defendant neglects to deliver the notice of defence and an affidavit prescribed by Rule 3(1) or is not given leave to defend by the court the suit shall be heard as an undefended suit and judgment given accordingly.

The procedure under the undefended list is such that once the Defendant fails or neglects to do the needful as required by law,

the Claimant if it appears to the court that he has proved his case, is entitled to judgment.

The Claimant in the instant case has proved his case by the series of exhibits attached to support the case to which there is no contrary evidence.

In a plethora of cases the courts have held that when any piece of evidence before the court is not challenged, controverted or contradicted such is subject to be and is deemed admitted. See the cases of **UBA PLC VS PATKAN VENTURES LTD (2017) LPEPR-42392 (CA)** and **UGO & ORS VS MAHA & ORS (2015) LPELR-25930 (CA)**. In this latter case it was held:

It is settled law that unchallenged or uncontroverted affidavit evidence is deemed admitted by the adverse party and the court will normally admit it.

As I sated earlier, the Defendant failed to file a notice of intention to defend accompanied by an affidavit disclosing a defence on its merit. I consider and find the case of the claimant established.

In the circumstance therefore I hereby enter judgment in favour of the Claimant against the Defendants jointly and severally as follows:-

1. I order the Defendants jointly and severally to refund, to the Claimant forthwith, the sum of N90,000,000.00

(Ninety Million Naira) only being outstanding and unpaid debt owed the Claimant by the Defendant.

2. As for the prayers for damages and for cost, a claim under the undefended list procedure does not accommodate damages and cost, as a claim under this procedure must be for a claim to recover a debt or liquidated money demand.

See **LONESTAR DRILLING NIGERIA LTD VS NEW GENESIS EXECUTIVE SECURITY LTD (2011) LPELR-4437 (CA).**

I therefore make no orders as to damages and cost.

Singed
Hon. Judge
18/06/19

APPEARANCES

1. **RIO OLOYEDE ESQ** for Claimant.
2. No Appearance for Defendant.

AUTHORITIES

1. **FEDERAL REPUBLIC OF NIGERIA VS LAWANI (2014) ALL FWLR (pt. 712) 1752.**
2. **IKEYI & ORS VS UDI L.G (2015) LPELR-40674 (CA).**
3. **UBA PLC VS PATKAN VENTURES LTD (2017) LPEPR-42392 (CA).**
4. **UGO & ORS VS MAHA & ORS (2015) LPELR-25930 (CA).**
5. **LONESTAR DRILLING NIGERIA LTD VS NEW GENESIS EXECUTIVE SECURITY LTD (2011) LPELR-4437 (CA).**

RULING/JUDGMENT

Upon being granted leave to goon with the case learned counsel to the 1st Respondent/Applicant informed the Court of their intention to move their motion dated and filed on the 11/05/2011 which was brought pursuant to the inherent jurisdiction of the Court as provided for by section 6 (6) of the 1999 constitution of the Federal Republic of Nigeria. Praying for the following orders:

An order of this Court dismissing the sustentative suit on the ground that this Court lacks the jurisdiction to entertain same.

And for such further orders as the Court may deem fit to make in the circumstance and the grounds upon which the application was brought were that:

There is an earlier suit on the same subject matter pending before Justice Kutigi of High Court 29 Wuse Zone 5, Abuja with motion No. M/4331/11 dated 21/03/2011 and filed on 22/03/2011.

Following this present suit to continue will amount to abuse of Court process.

Counsel further submitted that they have also filed and will rely on all the averment in their paragraphs affidavit in support of the motion on notice deposed to by one Doris Eze a litigation secretary in their firm and a certified true copy of processes filed in Justice Kutigi's Court motion number: M/4331/11 between Dr. Ikenna Ihezub Vs Inspector General police & 3 Ors annexed and marked as exhibit 'A' that they also filed a written address and same was adopted as their oral argument in this suit.

Finally counsel urge the Court to dismiss the suit. Because the Respondent/Applicant in this suit is also the Applicant in the case before Justice Kutigi's Court while 2nd and 3rd Respondents in this suit were also Respondent with two others. And same were the subject matter of these two suits pending before Courts of co-ordinate jurisdiction at the same time.

Counsel submit that this amount to an abuse of Court process and referred the Court to the case of Onalaja Vs Oshinubi Cited in his written address.

Applicant/Respondent counsel did not file a counter affidavit but respond on point of law by opposing the said application and submitted that it is a ploy to delay hearing of their application which rules of Court frown at. He further submitted that the parties subject matter, and reliefs sought were not the same and referred the Court to page 12 of the annexure under the heading 1 preliminary statement where the car registration number: is JHMCM 56894-CO 35926 whereas in the application before this Court the car Reg. No. is BV 645 RSH.

Learned counsel to the Applicant/Respondent further stated that in the suit before Court 29 of the High Court of FCT. N1,000,000.00k damages was claimed against all the Respondents and Applicant in this suit who the 1st Respondent in the above mentioned case whereas the Applicant in the instant suit is claiming N10,000,000.00 against the 1st Respondent alone. Learned counsel to the Applicant/Respondent cited the case of Ubeng Vs Usua (2006) 12 NWLR (pt 994) 244 at pg 255 Paragraph E – H Ratio 1 and urge the Court to dismiss the application because there is no evidence that the Applicant/Respondent in this suit has instituted several suits against the Respondents.

Further more learned counsel to the Applicant/Respondent adopted the argument of 2nd and 3rd Respondents counsel where they assert that the parties, subject matter and the reliefs sought in the two different suits before the two different Courts pending at the same time were not the same. He submitted that the authorities relied upon by the 1st Respondent do not apply in this suit and referred the Court to the case of Ette Vs Edoho (2009) 8 NWLR (pt 114) 601 at 603 Ratio 3.

Again learned counsel to the Applicant/Respondent argued that the Court can hear his application that day even as the 1st Respondent/Applicant which ought to have file a counter affidavit by that time is yet to do same. Also referred the Court to order 8 rule 4 of the Fundamental Human Right Enforcement procedure rules and the case of Abia State University Vs Chima Anya Ibe (1996) 1 NWLR (pt 439) 646 at 660.

Finally, learned counsel urged the Court to dismiss the preliminary objection of the 1st Respondent/Applicant and grant their reliefs as contained in the Applicant motion on notice dated 24/03/11 and filed the same date.

Going through the processes filed by all the parties and their oral submission on point of law, it is trite principle of law that once as issue of jurisdiction is raised that the Court should first decide on it first. This is because if at the end, it is found out that Court acted without jurisdiction all the proceedings shall be rendered null and void see the case of Madukolu Vs Nkemdilim (1962) 2 SCNLR

R 341 and Arowolo Vs Adsina (2011) 2 NWLR (pt 1231) 315. It is on that strength that the issue of jurisdiction as raised by the 1st Respondent shall be considered first.

We have earlier on stated the prayer of the 1st Respondent/Applicant in his motion to dismiss suit for lack of jurisdiction on the ground that the suit is an abuse of judicial process that there is a similar suit between the parties pending before Justice Kutigi's Court in High Court 29.

This been the contention of the 1st Respondent/Applicant, thus the term abuse of Judicial process has been Judicially defined to mean that the process of the Court has not been used bonafide and properly. It also connotes the employment of judicial process by a party in improper use to the irritation and annoyance of his opponent and the efficient and effective administration of Justice see the case of Umeh Vs Iwu (2008) 8 NWLR (pt 1089) 225. In order to sustain a charge of abuse of process there must Co-exhibit inter alia

- (a) A multiplicity of suits
- (b) Between the same opponents,
- (c) On the same subject matter, and
- (d) On the same issues.

It is against this backdrop of these laid down condition that there arises the need to glance through the aforesaid suits No: M/4611/11: Miss Chika Ogu Vs Dr. Ikenna Ihezvo & 2 Ors and suit No: M/4331/11 Dr. Ikenna Ihezvo Vs I.G.P & 3 Ors. It is obvious from the faces of the two suit that the parties are not the same as a result both parties are entitled to initiate and air their grievance at the law Courts as when there is a right, there must be a remedy.

On the question of the same subject matter in both aforesaid suits. The instance suit No: M/4611/11 has been instituted for a relief against the 2nd and 3rd Respondent to release her car Honda Accord with registration number Abuja BV 645 RSH which was detained upon the instigation by the 1st

Respondent and Ten Million Naira (10,000,000.00) against the 1st Respondent as exemplary damages for the unwarranted and malicious infringement of the Applicant's Fundamental Rights. Whereas suit No: M/4331/11 on the other hand is a declaration against the Inspector General of Police and 3 Ors that the continuous detention of the Applicant's vehicle, a red 2004 Honda Accord with Vehicle identification number JHMCM 56894 CO35926 by the Respondents is illegal, unconstitutional, oppressive and a gross violation of the Applicant's Fundamental Rights as guaranteed by section 44 (1) of the constitution of the FRN 1999; an order releasing the said Applicant's vehicle being detained by the Respondents, and an order awarding the sum of One Million Naira (N1,000,000.00) only against the Respondents jointly and severally being general damages for the violation of the Applicant's Fundamental Rights.

In views of the above the subject matter in issue in suit No: M/4611/11 is the releasing of 2004 Honda Accord car with registration number Abuja BV 645 RSH to the Applicant and the particulars were exhibited as per exhibits 'G', 'A', 'J' 'K' in the Applicant's paragraph 32 of her affidavit in support of the motion and N10,000,000.00k exemplary damages. While on the other hand the subject matter in issue in suit No: M/4331/11 is a recovered stolen car from the suspects (Names Unknown) and N1,000,000.00 general damages. It is difficult here to state that both suits were the same to sustain charge of abuse of Court process in addition base on the careful perusal/appraisal of the two suits, the contending issues in both suits are not the same.

It is therefore in the interest of Justice that the application for dismissal of the instant suit is hereby refused since there is no prove to show any abuse of Court process by the 1st Respondent/Applicant.

SUBSTATIVE CASE

The Applicant in this suit brought an application dated 24/03/2011 and filed the same day to enforce her Fundamental Human Rights against the Respondents pursuant to sections 44, 46 (1) and (2) of the 1999 constitution of the Federal Republic of Nigeria (as Amended) and order 2, Rules 1,2 and 3 of the Fundamental Rights (Enforcement Procedure) Rules 2009 seeking the following reliefs:

A declaration that the seizure and or detention of the Applicant's Honda Accord car with registration number Abuja, BV 645 RSH since October, 29th 2010 by the 2nd and 3rd Respondents on a false allegation and instigation of the 1st Respondent is unlawful unwarranted and contrary to section 44 of the constitution of the Federal Republic of Nigeria.

An order directing the 2nd and 3rd Respondent to release the said Honda Accord car with registration number Abuja, BV 645 RSH to the Applicant forth with without my conditions whatsoever.

Ten Million Naira (10,000,000.00k) against the 1st Respondent as exemplary damages for the unwarranted and malicious infringement of the applicant's Fundamental Rights.

And for such further order or orders as this Honourable Court may deem fit to make in the circumstance.

The Applicant also filed and relied on her statement of fact which was brought pursuant to order 2 Rule 3 of the Fundamental Rights (Enforcement Procedure) Rules 2009, 38 paragraphs in support of the motion on notice deposed to by the Applicant she relied on all the averment and the attached exhibits thereto and marked as follows:-

- (i) A copy of the invitation card to the traditional wedding ceremony between the 1st Respondent and her sister. Marked Exhibit A.
- (ii) Two pictures of the traditional wedding ceremony between the 1st Respondent and her sister. Marked Exhibits B and B1.
- (iii) A copy of the Applicant's statement of account from United Bank for Africa Plc Domiciliary Account Number 049013000472 showing two transfers of \$4,500 to Salome Chizoba Ogu. Marked Exhibit C.
- (iv) Teller showing deposit of the sum of N140,000 into Zimus Resources Limited account with intercontinental Bank Plc. Marked Exhibit D.
- (v) Teller showing deposit of the sum of N130,000 into Zimus Resources Limited account with Intercontinental Bank Plc. E.

- (vi) A copy of the Applicants statement of account from United Bank for Africa Plc Account Number 049002001874 showing transfer of N47,200 to Callistus Onyenaobi. Marked Exhibit F.
- (vii) Shipping documents given to the Applicant by Fano Shipping Agencies Limited covering the two 2004 Honda Accord vehicles and two other vehicles. Marked Exhibit G.
- (viii) Copies of Vehicle License and proof of Ownership Certificate for Honda Accord with registration number BG 16 GWA. Marked jointly as Exhibit H.
- (ix) Copies of registration papers for Honda Accord with registration number BV 645 RSH (the subject matter of this suit). Marked jointly as Exhibit J.
- (x) Picture showing the 1st Respondent and his wife standing in front of the Honda Accord with registration number BV 645 RSH at the family house of the Applicant in Aboh Mbaise, Imo State in April 2010. Marked Exhibit K.

Finally a written address in support of the Applicant's application was equally filed by learned counsel to the Applicant. Formulating one issue for determination '**whether the Respondents have violated the Fundamental Right of the Applicant to own and keep movable property so as to warrant a grant of the reliefs sought by the Applicant**'.

Counsel affirm the lone issue formulated by him and referred the Court to provisions of section 44 (1) of the constitution of the Federal Republic of Nigeria which provides that 'No movable property or any interest in an immovable property shall be taken possession of compulsorily and no right over or interest in any such property shall be acquire compulsorily in any party of Nigeria except in the manner and for the purposes prescribed by a law that, among other things:

- (a) Requires the prompt payment of compensation therefor; and
- (b) Gives to any person claiming such compensation a right of access for the determination of his interest in the property and the amount of compensation to a Court of law or tribunal or body having jurisdiction in that part of Nigeria.

Learned counsel to the Applicant/Respondent contend that the Applicant has put before the Court evidence to enable the Court hold that the Honda Accord car with registration number BV 645 RSH belongs to the Applicant and she is entitled to a protection of her right to own same. Even though they were not unmindful of the limitation placed by the provisions of section 44(2)(k) of the constitution which provides as follows:

(2) Nothing in subsection (1) of this section shall be construed as affecting any general law –

(k) relating to the temporary taking possession of property for the purpose of any examination, investigation or enquiry;

Counsel further urge the Court to hold that the continued seizure and or detention of the Honda Accord car the subject matter of this suit since October 29, 2010 without charging anybody to Court for any offence or releasing the car to the Applicant by the 2nd and 3rd Respondents is unreasonable and can no longer qualify as **‘temporary taking possession of a property for the purpose of any examination, investigation or enquiry’**. Counsel referred the Court to the case of Nawa Vs A.G. Cross River State (2008) ALL FWLR (pt 401) pg 807 at 840 where it was held that it is the duty of Court to safe guard the Rights and liberties of individual and to protect him from any abuse or misuse of power.

Learned counsel to the Applicant also submitted that the Applicant has made out a case against the 1st Respondent through the averment in her affidavit and the documents attached as exhibits for the violation of her right to own and keep movable property by the Respondents and urge the Court to grant all the reliefs sought particularly the relief of Ten Million Naira (N10,000,000.00k) exemplary damages against the 1st Respondent. On this counsel referred the Court to the cases of Odogu Vs A.G. Federation & Ors (2000) 2 HRLRA 82 and Jimoh Vs A.G. Federation (1998) 1 HRLRA 513.

Learned counsel to the Applicant/Respondent moved his motion in terms of the motion paper on the 12/05/2011 and further relied on the 2nd and 3rd Respondent Counter Affidavit especially paragraph 5(iii) and 5(vii) and urge the

Court to grant their reliefs as prayed because all their facts and the attached exhibits were unchallenged by the Respondents.

Learned counsel to the 1st Respondent/Applicant submitted that they do not file any Counter Affidavit to enable them contradict the Applicant/Respondents position but choose to reply on point of law.

Counsel then referred the Court to Exhibit 'G' where at the 2nd page the name of the 1st Respondent/Applicant appears at the column of Exporter /Importer. Counsel then submitted that the 1st Respondent is the owner of the said vehicle and has not transferred his ownership to the Applicant/Respondent even from the attached exhibits to the motion.

By way of response to the 3rd relief ieN10,000,00k exemplary damages sought by the Applicant/Respondent against 1st Respondent, counsel further submit that the 1st Respondent/Applicant did not violate her Fundamental Human Rights but rather contest the vehicle's ownership with her and that if the Court so hold, it wasn't with malice because there were several letters from him to the police to investigate his stolen car. Counsel urge the Court to be guided by principle of fair play in its ruling.

In another breath learned counsel to the 2nd and 3rd Respondent also informed the Court that they opposed the 1st relief sought by the Applicant/Respondent against the 2nd and 3rd Respondent and in view of their opposition they filed and relied on 8 paragraphs Counter Affidavit deposed to by on Jonah Wutu police officer and litigation clerk in the legal department of the Force C.I.D. Abuja. In further opposition to the said relief one, counsel to the 2nd and 3rd Respondent having filed also adopted his written address where it contended that up till that day, 1st Respondent is still contesting the ownership of the said vehicle with the Applicant/Respondent and that their action was not actuated by malafide but promise to handover the car to the true owner when a Court of competent jurisdiction ordered same.

Finally counsel urge the Court to dismiss relief one sought by the Applicant/Respondent against 2nd and 3rd Respondent but conceded to the 2nd relief and stated that the 3rd relief do not affect them.

