

IN THE HIGH COURT OF FEDERAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT COURT 29, NYANYA, ABUJA

SUIT NO: FCT/HC/CV/1904/18

BEFORE HIS LORDSHIP:
HON. JUSTICE MUAWIYAH BABA IDRIS

CLERK OF THE COURT: O. TOBI BLESSING

BETWEEN

ALHAJI ZAKARI A. HUSSAINI APPLICANT

AND

1. INSPECTOR GENERAL OF POLICE } RESPONDENTS
2. COMMISSIONER OF F.C.T ABUJA }

JUDGMENT

The following reliefs are sought:

- A. AN ORDER OF COURT declaring the restriction placed on the Applicant Banks accounts without any order of court of competent jurisdiction by men and officers of the Respondents amount to a violation of the Applicant’s fundamental Rights as enshrined in the constitution.
- B. AN ORDER OF COURT mandating men and officers of the Respondents to remove the restriction notice/order placed on the Applicant’s personal Bank Account as well as that of his company (Amira Multi-Service Nig. Ltd) or charge the Applicant to Court of competent Jurisdiction if the Respondents deem fit that the Applicant has used his personal Bank Account (Access Bank account number 0035159193 or that of the corporate account (Diamond Bank, Eco-Bank and Sterling Bank) to commit any financial fraud/crime against any person dead or alive in that the continuous restriction/embargo on the Applicant Banks Accounts by the Respondents is illegal, unlawful as same amount to a

violation of the Applicant fundamental Rights as enshrined in the constitution.

- C. AN ORDER of perpetual injunction restraining the Respondents jointly and severally, their servants, officers and Privies from further placing any form of restriction on all Banks account whether personal or corporate of the applicant until the final determination of the substantive matter herein.
- D. An order of Court that the act of the Respondents MPAPE Divisional Police Headquarters compelling the applicant to be remitting money to the respondent on monthly basis against his will is illegal in that the respondent is not a debt recovery agency.
- E. The sum of N20,000,000.00(Twenty Million Naira) only jointly and severally against the Respondents as general damages or compensation to the applicant for the unlawful, illegal and unconstitutional restriction/embargo on the Applicant's Bank Account.
- F. And for such further or incidental orders as the honourable Court may deem fit to make in the circumstances.

The grounds of the application as contained in the statement of facts are:

1. The Respondents have not specified or pointed out the offence(s) the Applicant is said to have committed such that the Applicant can be arrested and kept in the Respondent's custody at the Mpape Police Division, Abuja from 13th April, 2018 till 18th April, 2018 and the placing of a restriction order on the Applicant's banks account from 10th April, 2018 till 21st of May, 2018.
2. The arrest and detention of the Applicant from the 13th April, 2018 till 18th April, 2018 and the restriction order placed on the banks account of the applicant from 10th of April, 2018 till 21st of May, 2018 is unlawful, illegal and unconstitutional.
3. The arrest and detention from 13th April, 2018 till 18th April, 2018 and the restriction order placed on the banks account of the Applicant 10th of April till 21st of May, 2018 contributed immensely to the death of the Applicant's uncle because the fund meant for his treatment was not accessed due to the restriction order placed by the men and officers of the respondents.

4. The arrest and detention of the Applicant from 13th April, 2018 till 18th April, 2018 by the Respondents and the restriction order placed on the banks account of the applicant from 10th of April, 2018 till 21st of May, 2018 is unlawful, illegal and repugnant to natural justice, equity and good conscience and that entitles the applicant to compensation and or damages from the respondents.
5. The arrest and continuous detention of the Applicant from 13th day of April, 2018 till 18th day of April, 2018 and the restriction order placed on the banks account of the applicant has deprived the Applicant the opportunity to go on with his legitimate business transactions and has also curtailed, restrained, restricted and violated the applicant rights under the 1999 Constitution of the Federal Republic of Nigeria (As amended).
6. The family and other members of the Applicant's company are highly worried owing to the act of incivility by the men and officers of the Respondents which have led to the death of the applicant's uncle automatically put the entire family under trauma.
7. That the act of the Respondents MPAPE Divisional Police Headquarters compelling the applicant to be remitting money to the respondent on monthly basis against his will is illegal in that the respondent is not a debt recovery agency.
8. The 1999 constitution of Nigeria, the African charter on Human and Peoples Right, guarantees fair treatment and punishment given according to written laws and guarantees liberty and freedom of movement these has been violated by the Respondents in the instant case.

The originating motion is supported by a statement pursuant to OR 2 R3 FR(E)PR 2009,

The applicant filed a 27 paragraph affidavit which he personally deposed. Exhs. A and B are attached.

Learned counsel filed a written address.

The respondents filed a counter affidavit of 9 paragraphs deposed to by one Sgt. Onaji Joseph, the IPO of the case. Exhs. A, B, C, D, E, F, G, H and I are attached.

Learned counsel for the Respondents filed a written address.

The Applicant filed a further affidavit of 29 paragraphs deposed to the Applicant on 7/11/18. Some Exhibits are attached and marked Exhs. AZ1 – AZ6. Learned counsel filed a reply on point of law.

On 31/1/19 this Court raised an issue Suo moto and requested for address of the learned counsel for the parties. The issue is:

Whether in the light of the averments in the further affidavit of the Applicant that the documents relied upon by the respondents were forged. The matter can be determined on affidavit evidence?

Learned counsel for the respondents addressed the Court on 20/3/19 with the leave of the Honourable Court, the Applicant's learned counsel addressed the Court on 3/5/19.

I have considered the submission of the learned counsel on this issue.

The Applicant averred in his further affidavit that Exhs. A, D, E and F attached to the Respondent's counter affidavit are forged documents. I refer to paragraphs 5, 13, 18 and 20 of the Applicant's further affidavit.

I regard the averments, in my humble opinion, as raising a criminal allegation in a civil matter and it requires strict compliance with S. 135 E.A. 2011 that imposes the standard of proof beyond reasonable doubt. That has not been done. On the alleged restriction on the accounts. (The Applicant's Access Bank Account No. 0313005258 of Amira Multi Services Nig. Ltd.)

I have read Exhs. AZ3 and AZ4. Exh. AZ3 written by Access Bank Plc in response to Applicant's counsel's letter states:

“.....Please note that your client's account was never restricted by the Bank and the alleged inability to use the account may have been directly related to system glitches.”

While in their response to the Applicant's counsel's letter Eco Bank Plc wrote:

“We write to confirm that there was no restriction on account number 0313005358 belonging to Amira Multi Services Nig. Ltd. Your client may wish to take further steps to confirm this position.”

It should be noted that this application is founded on the alleged directive by the Respondents to the two banks to restrict the accounts of the Applicant.

The responses of the two banks have defeated the cause of action in this Application.

The summation of my consideration above is that this application for the enforcement of the fundamental right of the applicant has failed. The applicant is not entitled to any of the reliefs sought.

The application is dismissed.

Hon. Justice Muawiyah Baba Idris

20/6/19

APPEARANCES

S.E. UKEH Esq. for the Applicant

MUSA YAHAYA Esq. for the Respondents