

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

BEFORE HON. JUSTICE J. ENOBIE OBANOR
ON THIS 19TH DAY OF SEPTEMBER, 2024

SUIT NO: FCT/HC/CV/1883/2022
MOTION NO: GAR/1397/24

BETWEEN:

ALIYU DABO CLAIMANT/RESPONDENT
(Suing through his lawful attorney
CHIEMENAM A. MADUEGBUNAM)

AND

1. ALIYU DABO DEFENDANTS/APPLICANTS
2. IBRAHIM SILA MSHELLA

RULING

DELIVERED BY HON. JUSTICE J. ENOBIE OBANOR

By a Motion on Notice dated 3rd of July, 2024 and filed on the 8th of July, 2024, the Applicants, prayed this Court for the following reliefs:

1. An order for stay of proceedings pending the determination of the interlocutory appeal filed against the ruling of the Honourable Court delivered on 17th May, 2024 on the issue of jurisdiction.

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

The Application was filed alongside a 10-paragraph affidavit deposed to by Ibrahim Sila Mshellia, Exhibits marked as Exhibits A to E and a Written Address.

In his written address, Counsel to the Applicant raised a sole for determination to wit:

Whether this application can be granted.

Counsel argued that where the success of the appeal pending the outcome of which the suit in the trial court is to be stayed would dispose of the suit, there ought to be a stay of proceedings. He further argued that the refusal of the stay of proceedings would be unjust and inequitable. He contended further that since the appeal has been entered at the Court of Appeal, this Court ceases to have jurisdiction pending the determination of the appeal at the Court of Appeal. He relied on the case of **EZEOKAFOR VS. EZEILO (1999) 6 SCNJ 209 AT 218.**

The Claimant/Respondent did not file a counter-affidavit but orally replied on points of law, stating that the application ought to have been brought within 14 days of the ruling. He further argued that no application seeking the leave of Court was filed by the Applicant. He relied on the case of **GENERAL OIL LTD V.**

ODUNTAN (1990) 7 NWLR (PT 163) 423. In conclusion, he urged the Court to discountenance the application as the condition precedent has not complied with.

I have considered the processes filed and the exhibits, particularly Exhibits C to E, which is evidence to show that the appeal filed at the Court of Appeal has been entered and an appeal Number issued. It means that the Applicants are mindful of pursuing this appeal. It is in the interest of justice for this Court to stay proceedings pending the determination of the appeal.

This suit is hereby adjourned sine die depending the determination of the appeal.

I make no order as to cost.

HON. JUSTICE J. ENOBIE OBANOR

Judge

Appearances:

For the Claimant; Esang Smart Ukpanah, Esq.

For the Defendants; C.S. Okafor Esq.