

**THE HIGH COURT OF JUSTICE OF THE FEDERAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT MAITAMA – ABUJA**

BEFORE HIS LORDSHIP: HON. JUSTICE .H. MU'AZU

SUIT NO. FCT/HC/CV/769/2022

DATE: 09/07/2024

BETWEEN:

**BHAKOR CONSULT LTD.....CLAIMANT/DEFENDANT TO
COUNTERCLAIM/OBJECTOR**

AND

ABDULLAHI MUKTAR

(Carrying on business under the name and**DEFENDANT/COUNTERCLAIMANT/
Style of Abdullahi Muktar & Partners) RESPONDENT**

Appearance:

V.C. Ibuegwu for the Claimant.

K.I. Nuhu for the Defendant.

RULING

By Notice of preliminary Objection, filed on the 16/04/2024, the Claimant/Applicant prays for the following:

1. An Order of this Court dismissing the Defendant/Respondent's Counterclaim for being an abuse of Court process.
2. For such Further or other Orders as this Honourable Court may deem fit to make in the circumstances of this Suit.

The grounds upon which this application is brought are;

1. The Claim and/or prayers as contained in the Counterclaimant, Counterclaim before this Court are already the subject of Suit No: CV/51/2023 – MUKTAR ABDULLAHI V. BHAKOR CONSULT LIMITED filed for recovery of the premises the subject of the instant Counterclaim.
2. The instant Counterclaim instituted by the Counter claimant for recovery of premises was so instituted during the pendency of Suit No: CV/51/2023- MUKTAR ABDULLAHI V. BHAKOR CONSULT LIMITED.
3. The Counterclaim constituted an abuse of the process of the Court and ought properly to be dismissed.

Applicant also filed an 8 paragraph affidavit deposed to by one Lydia Sule.

Relevant facts distilled from the affidavit are that before now, the Defendant/Respondent had instituted an action for recovery of the same premises against the (herein) Claimant at the District Court Wuse Zone 6

with Suit No: CV/51/2023 having the same subject matter with the same reliefs sought.

It is also averred that both the parties met and agreed to bring an appropriate application to dismiss the instant Counterclaim of the Respondent for constituting an abuse of Court process.

The Claimant/Applicant had also filed a Written Address in support of the application where a sole issue was formulated for determination to wit;

“Whether the Counterclaim filed by the Defendant/Respondent constitutes an abuse of Court process and ought to be dismissed as such”

However, the Defendant/Respondent filed a 9 paragraph Counter Affidavit filed on 22/04/2024 deposed to by one Khadija Umar.

Relevant facts distilled from the affidavit are that the Defendant admits paragraph 5(a), (b), (c) and (d) of the affidavit in support. Whilst the Defendant/Applicant clearly admits the fact that both parties met and agreed to commence this application, vehemently, he denies part of paragraph 6 of the affidavit where it states that the Counterclaim filed along with his defence constitutes an abuse of Court process. The Claimant/Applicant as the Defendant before the District Court

contended through a Notice of Preliminary Objection that the said Suit was an abuse of Court process. Furthermore, the said Suit was struck out by the Court on the 6th February, 2024. And that the statement of Defence was filed on the 19th March 2024 with the leave of this Honourable Court.

The Defendant/Respondent also fled a Written Address in support of the application and adopted the sole issue formulated by the Claimant/Applicant.

Court: I have carefully considered the averments in the affidavit of the Claimant/Applicant on the one hand and counter affidavit of the Defendant/Respondent on the other hand. It is clear from the record that the Suit No: CV/51/2023 before the District Court Wuse Zone 6 had been struck out on the 6/02/2024 and as such, there cannot be abuse of Court process. Hence, the application fails and dismissed.

Signed

Hon. Judge

9/07/2024.