

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY  
IN THE ABUJA JUDICIAL DIVISION  
HOLDEN AT COURT NO. 4, MAITAMA  
ON THE 8<sup>TH</sup> DAY OF MAY, 2024

BEFORE HIS LORDSHIP: HON. JUSTICE U. P. KEKEMEKE

SUIT NO. FCT/HC/CV/1180/2021

MOTION NO. M/208/2022

COURT CLERKS: *JOSEPH ISHAKU BALAMI & ORS.*

BETWEEN:

PARTNERSHIP FOR SUPPLY

CHAIN MANAGEMENT INC. .... CLAIMANT/RESPONDENT

AND

MDS LOGISTICS LIMITED .....

DEFENDANT/APPLICANT

## **RULING**

The Defendant's application is for an Order staying further proceedings in this suit pending the final determination by the Court of Appeal of the appeal filed against the Ruling of this Court delivered on September 22, 2022.

Learned Counsel relies on the 10-paragraph Affidavit deposed to by Godwin Tyokaa. Essentially, he deposed that on 22/09/2022, this Court dismissed a Preliminary Objection and held that it has jurisdiction to hear and determine the suit.

Dissatisfied, the Defendant appealed to the Court of Appeal vide a Notice of Appeal dated November 28, 2022. The Notice of Appeal is Exhibit 1.

That the Notice of Appeal was filed outside the time prescribed by the Court of Appeal Act hence Applicant filed a Motion on Notice dated November 28, 2022 praying for extension of time within which the Applicant may file the appeal and deem the Notice properly filed.

That the appeal relates to jurisdiction of this Court. The grounds of appeal raised novel issues.

The Claimant relied on their Counter Affidavit. The Defendant filed a Notice of Appeal dated 28/11/2022 and a Motion on Notice for stay of proceeding. There is no valid appeal pending in the Court of Appeal.

The grant of the application will not be in the interest of justice.

I have also read the Further Affidavit and considered the Written Addresses of Counsel.

The grant or refusal of an application for stay of proceeding is at the discretion of the Court. The exercise of the discretion will be prompted by the peculiar circumstances of each case.

The peculiar or special circumstances that have received judicial approval include:

- (a) That there must be a competent appeal.
- (b) The pending appeal is arguable.
- (c) The Applicant must establish the existence of special or exceptional circumstances.
- (d) The competing rights and convenience of both parties.
- (e) Where the grant of the application will unnecessarily delay and prolong proceedings.
- (f) Where the issue of jurisdiction is raised in the appeal.

In the instant case, the issue of jurisdiction raised is not genuine. It is a camouflage to hoodwink the Court to a surrender. The Defendant's Preliminary Objection which led to the Ruling did not raise any issue of jurisdiction.

The Notice of Appeal has been filed since 2022 and nothing or no date has been given

for the hearing of the said Motion. The receipt of payment for filing in the Court of Appeal was not availed the Court.

The grant of the application will unnecessarily delay and prolong proceedings. The Defendant/Applicant has not shown any special or exceptional circumstance.

I have also looked at the competing rights of the parties. The appeal is interlocutory. The said Notice of Appeal was filed about two years ago. There is no date yet for hearing the Motion to regularise the Notice of Appeal.

Untold hardship will be visited on the Claimant who wants an end to ventilate their grievances. There is no evidence of payment for the compilation of Records of Appeal.

In the circumstance of this case, it is my humble view and I so hold that the Defendant/Applicant's application lacks merit.

I exercise my discretion in favour of the Claimant/Respondent. The application fails and it is dismissed.

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**HON. JUSTICE U. P. KEKEMEKE, ACIArb (UK), FICMC**  
(HON. JUDGE)  
08/05/2024

Parties absent.

Tosan Opubor, Esq. for the  
Claimant/Respondent.

A. N. Salis, Esq. for the  
Defendant/Applicant.

**COURT:** Ruling delivered.

(Signed)  
**HON. JUDGE**  
08/05/2024