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

BEFORE HIS LORDSHIP: HON. JUSTICE BABANGIDA HASSAN

SUIT NO: CV/7818/2023

BETWEEN:

1. **SEGUN ADEGOKE**
2. **JOSEPH ABUTU**
3. **DR. NASIRU SHIDALLI** } **……APPLICANTS**
4. **KABURU MOHAMMED**
5. **OMOLE SEGUN**
6. **OKECHUKWU**

AND

1. **INSPECTOR GENERAL OF POLICE (IGP)**
2. **THE COMMISSIONER OF POLICE**
3. **THE DEPUTY COMMISSIONER OF POLICE** } **……RESPONDENTS**
4. **DCP USMAN TAHIR**
5. **USMAN SADIQ**

JUDGMENT

In the application with No. CV/7818/2023, the applicants seek for the following reliefs:

1. A declaration that the applicants are entitled to the enjoyment of their Fundamental Right to dignity of human person, personal liberty, right to freedom of movement, right to privacy as respectively guaranteed under sections 33, 34, 41 and 46 of the constitution of the Federal Republic of Nigeria 1999 (as amended).
2. A declaration that nothing whatsoever under the 1999 constitution or the enabling the Nigerian Police Force to harass citizens or act as agent of any person or group of persons for the purpose of interfering, meddling or obstructing civil rights and obligations of citizens and that of the applicants.

3. A declaration that the continuous harassment, intimidation and threat to arrest the applicants by the 1st to 4th respondents under the complaint of the 5th respondent remains unlawful, ultra vires, unconstitutional and threat to enjoyment of the applicants' fundamental rights as guaranteed under the 1999 constitution (as amended).
4. An order restraining the respondents, either by themselves, their agents, servants, privies or any other persons acting on their behalf, from harassing, arresting and detaining the applicants in connection with the subject matter of this application.
5. An order restraining the 1st and 4th respondents from forcefully converting a pure civil mater into criminal offence against the applicants as they have no power to do so.
6. And for such further order or other orders as this Honourable Court may deem fit to make in this circumstances.

The application is supported by thirty-three paragraphed affidavit, and attached to the affidavit are documents labeled as EXH. 'A', 'B', 'C' and is accompanied by a written address of counsel.

The 1st respondent filed an eighteen paragraphed counter affidavit in opposition to the application, and attached to the affidavit are the following documents:

1. Expression of Interest Form.
2. Letter of Offer dated the 18th March, 2008.
3. Application for Legal search
4. Re-application to conduct search dated the 21st day of June, 2022.
5. Withdrawal of offer for the sale of House No. 28, 32 Crescent, Gwarimpa, Abuja.

6. A letter dated the 31st day of August, 2023 written by the solicitor to the 1st respondent to the Inspector General of Police, Abuja.
7. A letter dated the 13th October, 2023 written to the Commissioner of Police (Legal) forwarding the duplicate case file in respect of a house racketeering, forgery, fraud and exploitation.
8. Enrolled Court Order granted by the Chief Magistrate Court Mararaba, Nasarawa State.
9. A letter from Zenith Bank to the attention of DCP Tahir Mamman dated the 11th October, 2023.
10. Statement of account of Olusegun Adegoke of Zenith Bank.
11. A letter dated the 24th November, 2023 written by DCP Tahir Mamman to Deputy Inspector General of Police.
12. Photostat copy of Bail Bond of Alhaji Obaje.
13. Written application for Bail of Joseph Abutu written by Abubakar Suleman.
14. Bail Bond of Joseph Abutu
15. Application for Bail written by Alhaji Obaje.

The 5th respondent filed a Notice of Preliminary Objection dated the 4th day of December, 2023 praying the court to strike out the suit or set aside the service of the originating application on the ground that the suit is not initiated by due process of law and the suit is incompetent as leave for consolidation of several applications relating to the infringement of a particular fundamental right pending against several parties in respect of the same matter, and on the same grounds was not first sought and obtained.

In this written address accompanying the preliminary objection, the counsel to the 5th respondent proposed an issue for determination, this:

Whether this suit as presently originated and constituted is initiated by due process of law

and therefore competent to activate the jurisdiction of this Honourable Court?

Before the resolution of the above issue, it is incumbent upon this court to first treat this preliminary objection, since this application can be treated along with the main application in this judgment. See Order VIII Rule (4) and (5) of the Fundamental Right (Enforcement Right (Enforcement Procedure) Rules 2009. See the case of **Christlies V. Majekodunmi (2011) All FWLR (pt. 592) p. 1804 at 1812, paras. F-G** where the Court of Appeal, Lagos Division held that the court has a duty to make its decision on a preliminary objection known to the parties before it before proceeding to decide the substantive issue. This will give an opportunity to anyone dissatisfied with its decision to appeal against same.

The counsel submitted and answered the above issue in the negative because of five reasons.

On the first reason, the counsel submitted that the application of the applicants is not originated by due processes of the law to wit: Originating summons or motion by the combined provisions of Order 11 Rules 2 and 3 of the Fundamental Rights (Enforcement Procedure) Rules 2009 and Order 2 Rule 3(3) (4) of the Rules of this court, thereby robbing this court of the requisite vires to entertain this suit.

On the mode of commencement of fundamental right action, the counsel referred to Order 11 Rules 2 and 3 of the Fundamental Right (Enforcement Procedure) Rules 2009, and he went ahead to quote same which give the meaning of an "application" and "Originating application"

The second reason, according to the counsel to the 5th respondent, the applicants' instant application before this court is not supported by a statement, and verifying affidavit as required by Order 11 Rule 3 of the Fundamental Rights (Enforcement Procedure) Rules 2009. The counsel submitted further that a statement, which set out the details

and description of the applicant, the relief sought among others is patently missing in the extant application of the applicants. The counsel submitted that all that the applicants filed are motion on notice, the applicants' affidavit in support and a written address, and nothing more.

The counsel submitted that the 1st applicants' motion on notice cannot take the required place of the statement, which is different document from the document seeking or praying for the reliefs sought.

The counsel submitted that the commencement of cases under the Fundamental Rights (Enforcement Procedure) Rules is sui generis unlike the regular civil cases and is regulated by the Fundamental Rights (Enforcement Procedure) Rules 2009 which laid down the mode of commencing rights action and he cited the case of **Skye Bank Plc V. Emerson Njoku & Ors (2016) LPELR 40447 (CA) per Mbaba JCA.** The counsel cited the case of **Iwe V. Frankchris Petroleum Ltd & Ors (2022) LPELR – 56695 (CA)** where it was held that Order 2 Rule 3 of the Fundamental Rights (Enforcement Procedure) Rules 2009 provides for the mode of commencement of action. The cases cited the case of **Ohedihen V. Nigerian Petroleum Development Company Ltd & Ors (2019) LPELR – 47434 (CA)** and **Kida V. Ogunmola (2006) 13 NWLR (pt 997) 377 at 394, para. E.** to the effect that the validity of the originating process in a proceeding is a sine qua ion to the legitimacy of any suit.

The counsel drew the attention of the court to the word used in Order II Rule 3 is 'shall' which presupposes that it is mandatory, and he referred to the case of **Udene V. Ugwu (1997) 3 NWLR (pt 491), p. 62** to the effect that where a procedure has been prescribed by a statute for a redness or an act to be done or required to be done, and there is no doubt from the language used in the statute, the court would not allow any departure from the procedure, and he

cited the case of **Nemi V. State (1994) 10 SCNJ 1 at 45.** The counsel submitted that in the instant case, the applicants chose to a procedure different from the one prescribed by the rules and it is fatal blow to their application and he urged the court to so hold, he cited the case of **Wahab and Anor. V. Aliyu (2015) LPELR – 40395.**

On the third reason, the counsel to the 5th respondent argued that the applicants have filed suit and they did not file separate application which is required in fundamental rights case to be generally personal to each applicant, which is also in breach of Order II Rule 4 of the Fundamental Rights (Enforcement Procedure) Rules 2009, and he went ahead to quote the motion of the rule.

The counsel to the 5th respondent drew the attention of the court to the concern expression in the rule which states that "stating that the applicant is unable to depose personally to the affidavit". The counsel submitted further that the unambiguous provision never contemplate the strange scenario adopted by the applicants who are neither in custody nor for any exempted reasons, unable to depose personally to the affidavit. The counsel submitted that for the applicants to have a competent application, they must file separate applications with separate affidavits in support.

The counsel submitted that with the use of the words 'us' 'our', the paragraphs 25, 26, 27, 28, 29 and 30, no doubt, mean that the 1st applicant's affidavit is for himself and on behalf of the other applicants to the application, however, the provisions of Order II Rules 1 and 4 of the Fundamental Rights (Enforcement Procedure) Rules 2009 made reference to "applicant" that is one person and not "applicants" that would have related to "group of persons" as in the present application which ought to have deposed to affidavit each and personally, and not by a proxy and the counsel further referred to the case of **Saraki & 20 Ors V.**

IGP (unreported) presided by Justice Okon Abang J. in a Suit No. FHC/ABJ/03/095/2018, to persuade the court.

On the forth reason, the counsel submitted that the applicants' suit is in contravention of the provisions of Order II Rule 4 of Fundamental Rights (Enforcement Procedure) Rules 2009 because the applicants filed one suit instead of six separate suits with separate affidavits in support. To the counsel, this is notwithstanding that the applicants may claim that they have a common course of action or that the statement of facts and affidavit in support and the ground are predicated upon or relate to the same subject matter.

The counsel continued to submit that the six applicants cannot come to court in one suit to complain that the 1st, 2nd, 3rd and 4th respondents' invitation extended to them for a case of course racketeering, forgery of title documents, fraudulent and exploitation is a breach of their fundamental right, and submitted that the applicants ought to have filed separate suits, and he cited the case of **Kporharor & Anor. V. Yedi & Ors (2017) LPELR – 42418** to the effect that an action under the Fundamental Rights (Enforcement Procedure) Rules is a peculiar action or sui generis and the directives used in both provisions in qualifying who can apply to a court to enforce a right is "any" which denotes singular and does not admit pluralities in any form, and any application filed by more than one person to enforce a right under the Fundamental Rights (Enforcement Procedure) Rules is incompetent and liable to be struck out, and he cited the case of **R.T.F.T.C.I.N. V. Ikwecheigh (2000) 13 NWLR (pt 683) p. 1,** and the case of **Okechukwu V. Etukwokwu (1998) 8 NWLR (pt 562) p. 511 per Niki Tobi JCA (as he then was)** to the effect that the provisions of chapter 4 cover individuals and not a group or collection of individuals.

On the fifth reason, the counsel to the 5th respondent submitted that where applications are pending before

different judges, the applicant shall first apply to the Chief Judge of the High Court for re-assignment of the matter to a judge before whom one or more matters are pending and he quoted Order VII Rules 1 & 2 of the Fundamental Rights (Enforcement Procedure) Rules 2009.

The counsel submitted that the word used is "may" which indicates permissive, and what it means is that separate fundamental rights applications have to be filed first before they may be consolidated by an order of the court it necessary, and the applicant owes the duty to connive the court that issues are the same in all the matters sought for consolidation before the court may grant same. The counsel also argued that the applicant cannot su motu force joint or consolidated application on the court as done by the instant applicants, and in other words leave must first be obtained on application made by the applicant and the court can discretionally grant same, and therefore to the counsel, by Order 2 Rule 3 of the Fundamental Rights (Enforcement) Rule filing separate applications is a condition precedent to an order of consolidation.

The counsel submitted that although the decision in **R.T.F.T.C.I.N. V. Ikwecheigh (supra)** is founded on the provision of Order I Rule 2(1) and Order 2 Rule 3 of the Fundamental Rights (Enforcement Procedure) Rules 1979, the provisions are pari material with the extant provisions of Order II Rule I and Order VII Rule I of the Fundamental Rights (Enforcement Procedure) Rules 2009. The provisions have been followed in recent cases of **Chief of Naval Staff V. Archibong (2020) LPELR – 51845 (CA); EFCC V. Energy Property CA/ABJ/CV/994/2020** unreported; and **Abuja Electricity Distribution Company V. Onwero (Nig.) Ltd & Ors (2021) LPELR – 54212 (CA).**

The counsel submitted that in **Finamedia Global Services Ltd V. Onwuero Nig. Ltd. & Ors (2020) LPELR – 51149,** the Court of Appeal explained why joint application for

fundamental rights is not allowed as Order IX Rule I Fundamental Rights (Enforcement Procedure) Rules 2009 cannot employed to have any defect arising from Joint application, and the counsel quoted the dictum of **Mustapha JCA** to that effect.

The applicants filed a reply on points of law in opposition to 5th respondent's Notice of Preliminary Objection dated 16th May, 2024.

On the argument that the application of the applicants is not originated by due processes of the law, the learned counsel to the applicants submitted that the submission of the counsel to the 5th respondent that the action ought to have been commenced by Originating Summons and not by motion on notice, the position has remained in law that the form of action adopted in Fundamental Rights (Enforcement Procedure) Rules does not affect the competence of the suit so long as is one brought pursuant to Order II Rule 1, 2, 3 and 4 of the same rules 2009 and it sought redress for the infringement of the right guaranteed under the constitution, this even if the application is headed "Motion on Notice", it does not affect the competency of the suit.

The counsel submitted that this was re-iterated by **Uwaifo JSC** in the case of **FRN V. Ifegwu (2003) 15 NWLR (pt 842) p. 113.** He referred to some indicial authorities such as:

> **Maigataran & Anor V. Dankoli & Anor (2020) LPELR – 52025 (CA); EFCC V. Clinton (2016) LPELR – 45615 (CA); A.G. Federation V. Abule (2005) 11 NWLR (pt 936) p. 369; Abdullahi V. Sabuwa (2015) LPELR – 25954 (CA); Okehi V. Inspector General of Police (2018) LPELR – 45062 (CA); Climax) Hotel Nig. Ltd. V. Venitee Global Nig. Ltd. (2019) LPELR – 48130 (CA).**

On the argument that the applicants' instant application is not supported by a statement and verifying

affidavit, the counsel submitted that the case of **FRN V. Ifegwu (supra)** clearly for bits sacrificial fundamental rights enforcement suit on the technical utter of manner and form, as the motion is supported with affidavit all captured the succinct description of the applicants, reliefs sought and grounds for the application, and Order II Rule 3 of the Fundamental Rights (Enforcement Procedure) Rules 2009 only requires the support of the application by an affidavit and not verifying affidavit.

On the filing of single suit with a single affidavit by the applicants, the counsel submitted that an application for an enforcement of fundamental right can be jointly made by the applicants. The counsel submitted that, it is worthy of note that the right to seek redress for infringement of fundamental rights pursuant to section 46(I) of the 1999 constitution 1999, (as amended) is vested in "any person".

The counsel asked this question:

> **Whether the phrase "any person" as used in the above provision can be construed to include more than one person or not?**

The counsel answered the said question that the phrase "any person" denotes singular, and it is his submission that by virtue of section 14 of the Interpretation Act, is construing an enactment, words in the singular include the plural and words in the plural include the singular, and he cited the cases of **Coker V. Adetayo (1996) 6 NWLR (pt 545) 258 at 260**, **Udeh V. The State (1999) LPELR – 3292;** and **APGA V. Ohazuluike (2011) LPELR – 9125.**

The counsel further submitted that the adjective employed in the provisions of section 46(I) of the 1999 Constitution and Order 2 Rule I of the Fundamental Rights (Enforcement Procedure) Rules 2009 is "any". The argued that it qualifies the noun, person. The counsel referred to **Merriam – Webster Online Dictionary** which defines the word "any" as an adjective which could be one or more and so

the word "any" cannot be restricted to an individual, and he urged the court to so hold, and also cited the case of **National Security Adviser & Anor. V. Tabe & Ors (2022) LPELR – 57209 (CA);** and **Govt. of Enugu State V. Onya (2021) LPELR – 52688 (CA)** and a host of other judicial authorities.

The counsel submitted that there is nothing in Order II Rule 3 mandating each applicant in a joint application for enforcement of fundamental right to separately depose to an affidavit as it is even more trite principle of law that a party need not to testify if he can prove his case his witnesses and there is no obligation on the applicants to depose to an affidavit individually and therefore urged the court to so hold, and he cited the cases of **Ojuwao V. UBA Plc (2013) LPELR – 22180;** and **PDP V. Nwankwo (2015) LPELR – 40568.**

Thus, I adopt the issue for determination as already formulated by the counsel to the 5th respondent, to wit:

> **Whether this suit as presently originated and constituted is initiated by due process of law and therefore competent to activate the jurisdiction of this Honourable Court?**

The law is that where a special procedure is prescribed for enforcement of a particular right or remedy, non compliance with or departure from such procedure is fatal to the enforcement of the remedy. See the case of **Director General S.S.S. V. Ojukwu (2006) All FWLR (pt 339) p. 980 at p. 986, paras. E-F.**

It is the contention of the counsel to the 5th respondent that the applicants' application is an originating process or application seeking to enforce their purported fundamental rights and same cannot be initiated via motion on notice as motion on notice is only used for an application in a pending cause or matter, and he called in aid the provisions of Order I Rule 2 of the Fundamental Rights (Enforcement Procedure) Rules 2009 which distinguished "application"

and "originating application" while it is the contention of the counsel to the applicants that the position has remained in law that the form of an action adopted in Fundamental Rights Enforcement does not affect the competence of the suit so long as is one brought pursuant to Order II Rules 1, 2, 3, and 4 of the Fundamental Rights (Enforcement Procedure) Rules 2009 and it sought redress for the infringement of the right guaranteed under the constitution, even if the application is headed Motion on Notice, it does not affect the competence.

Thus, the filing of this application was made through motion on notice mislead of originating motion. This has to do with the form used in filing the application, and I invoke Order IX Rule I of the Fundamental Rights (Enforcement Procedure) Rules 2009 to hold that the applicant filed through Motion on Notice is still competent.

Order IX Rule I provides:

> **"Where at any stage in the course of or in connection with any proceedings there has, by reason of anything done or left undone, been failure to comply with the requirement as toe time, place or manner or form, the failure shall be treated as an irregularity and may not nullify such proceedings except as they relate to:**
>
> **i. Mode of commencement of the application.**
>
> **ii. The subject matter is not chapter IV of the constitution or the African Charter on Human and People's Rights (Ratification and Enforcement) Act."**

The argument of the counsel to the 5th respondent is on the mode of commencement of the fundamental right enforcement action. If that is the provision, then the provision of the exception of the above rule in roman number (i) will come to limelight, and this is to say anything

undone so long as it relates to time, place or manner or form, the court can invoke this rule to condone that omission, when the leave is obtained to regularise the omission.

However, anything undone which relates to the mode of this commencement of this action cannot be condoned by this court. So the provision of Order 2 Rule I of the Rules of this court provides for the mode upon which an action can be brought before the court which provides:

> **"Subject to the provisions of any enactment or rules of court, civil proceedings may be begun by writ originating summons, originating motion or petitions"**

From the above quoted provision of the rules of this court, it can be inferred that apart from the provisions of this rule, no any enactment that has provided for the mode of commencement of action in a civil suit regarding enforcement of the fundamental right, and the most recommended mode is originating motion or originating summons, and to this, I so hold.

It is very important to note that Order I Rule 2 of the Fundamental Rights (Enforcement Procedure) Rules 2009 categorically and unequivocally mentioned "application" which can be brought by or on behalf of any person to enforce or secure the enforcement of this fundamental rights, and I agree with the submission of the counsel to the 5th respondent, and the argument of the counsel to the applicants is hereby discountenanced.

The counsel to the 5th respondent contended that the instant application before the court is not supported by a statement and verifying affidavit as required by Order II Rule 3 of the Fundamental Rights (Enforcement Procedure) Rules 2009 while the counsel to the applicants contended that the position of the Supreme Court in the case of **FRN V. Ifeagwu (supra)** forbids sacrificing fundamental rights

enforcement suit on the technical utter of manner and form, as the motion with supported affidavit all captured the succinct description of the applicants, reliefs sought and grounds for the application"

It is instructive to note that the issue of filing application along with statement of facts and verifying affidavit capturing the description of the applicants, reliefs sought and grounds for the application has to do with manner or form the application should have captured, and this is where the provision of Order IX Rule I of the Fundamental Rights (Enforcement Procedure) Rules will be invoked to remedy the situation. It is also instructive to note that there should be an application to regularise the process but this was not done by the applicants. See the case of **N.N.P.C. V. Femfa Oil Ltd (2003) FWLR (pt 155) p. 796 at 805, paras. E-F** to the effect that where in the commencement of proceedings or in the course thereof, leave of court is required, if leave has been duly sought and obtained, any error or irregularity in other processes in the proceedings is regarded as mere administrative irregularity which is capable of being remedied and does not render the proceedings consequent thereto a nullity. By this, the applicants can remedy the situation by doing what is appropriate.

It is the contention of the counsel to the 5th respondent that the applicants' suit is in contravention of the provisions of Order II Rule 4 of the Fundamental Rights (Enforcement Procedure) Rules 2009 because the applicants filed one suit instead of six separate suits with separate affidavits in support. To the counsel, this is notwithstanding that the applicants may claim that they have a common cause of action or that the statement of facts and affidavit in support and the grounds are predicated upon or relate to the same subject matter, and therefore, the applicants' cannot come to court in one suit to complain that the 1st, 2nd, 3rd and 4th

respondents' invitation extended to them for a case of house racketeering, forgery of title documents is a breach of their fundamental rights. While the counsel to the applicants contended that it is his view that an applications for enforcement of fundamental right can be jointly made by the applicants on the basis that the right to seek redress for infringement of fundamental rights pursuant to section 46(I) of the 1999 constitution is vested in any person. The counsel asked this criminal question:

> **Whether the phrase "any person" as used in the above provision can be construed to include more than one person or not?**

The counsel gave an answer to that question that by virtue of section 14 of the Interpretation Act, in construing enactment, words in the singular include the plural and words in the plural include the singular. The counsel argued that the adjective in the provisions of section 46(1) of the 1999 constitution and Order II Rule I of the Fundamental Rights (Enforcement Procedure) Rules 2009 is "any" which Merriam-Webster Dictionary defines the word "any" as an adjective which could be one or more.

The counsel contended that on the joint deposition to affidavit, there is nothing in Order II Rule 3 of the Fundamental Rights (Enforcement Procedure) Rule 2009 mandating each applicant in the case of a joint application for the enforcement of fundamental rights to separately depose to an affidavit.

Thus, the Court of Appeal, Kaduna Division has already taken a decision in the case of **Kurama Traditional Council V. Yani (2021) All FWLR (pt 1086) p. 1051 at 1066, paras. F-G** where it held that by the provision of section 46(I), Constitution of the Federal Republic of Nigeria, 1999 and Order II Rule I of the Fundamental Rights (Enforcement Procedure) Rules, the application for the enforcement of the fundamental rights can only be made by individual

person. There cannot be a joint application made by persons to enforce their collective rights, hence, any such application made is incompetent and same is liable to be struck out.

The counsel to the 5th respondent also contended that in this case the Fundamental Rights (Enforcement Procedure) Rules 2009 decreed that the applicants ought to have deposed to affidavit each and personally, and not by proxy, and in this case the applicants filed one suit, and they did not file separate application which is required by Order II Rule 4 of the Fundamental Rights (Enforcement Procedure) Rules 2009. While the counsel to the applicants contended that it is his view that an application for enforcement of fundamental right can be sustained by Joint deposition as there is nothing in Order II Rule 3 mandating each applicant in the case of Joint application to separately depose to an affidavit.

Let me consider Order II Rule 4 of the Fundamental Rights (Enforcement Procedure) Rules 2009 which provides:

> **"The affidavit shall be made by the applicant, but where the applicant is in custody or if for any reason is unable to give to an affidavit, the affidavit shall be made by a person who has personal knowledge of the facts or by a person who has been informed of the facts by the applicant, stating that the applicant is unable to depose personally to the affidavit."**

It is worthy of note that the court to the 5th respondent made reference to Order II Rule 4 of the Fundamental Rights (Enforcement Procedure) Rules 2009, while the counsel to the applicants made reference to Order II Rule 3 of the same rules, and therefore, the counsel to the applicant misunderstood the argument.

The application was filed by five persons and the affidavit was filed by one individual, that is the 1st applicant

and there is no deposition to the effect that because of some certain reasons, the rest of the applicants are unable to depose to an affidavit, and it is not stated that the information deposed in the affidavit were obtained from the other applicants. It is not in the affidavit that the 2nd, 3rd, 4th, 5th and 6th applicants are in prison custody thereby making it not possible to depose to an affidavit, an so, to my mind the applicants are in breach of Order II Rule 4 of the Fundamental Rights (Enforcement Procedure) Rules 2009.

The counsel to the 5th respondent also contended that the applicants are in breach of Order VII Rules 1, 2 and 3 of the Fundamental Rights (Enforcement) Rules 2009 for failure to file separate suits, and for that failure to apply to consolidate the suits, and the counsel to the applicants did not proffer argument on this, and the implication is that the counsel to the applicants has admitted to the argument that it is true. See the case of **F.R.C.N. V. Nwankwo (2012) All FWLR (pt 641)** and **Labijam Auto & Agric Concerns Ltd V. UBA Plc (2014) All FWLR (pt 739).** In the instant case, I therefore agree with the counsel to the 5th respondent that if there are several applications, there should be several applicants and each applicant should have his affidavit, and the applicants are to be consolidated by the court upon an application to that effect, and I so hold.

As there is no application before the court for the leave to amend the processes, I have no doubt in my mind that the process fails short of a legal process, and the appropriate order to make is to strike out the process to give the applicants the opportunity to do the appropriate. The suit is hereby struck out accordingly. See the case of **Bello V. Adamu (2013) All FWLR (pt 671) p. 1583 at 1591, paras. C-D.**

Hon. Judge
Signed
24/9/2024

Appearances:

Agri J. Uda Esq appeared for the applicant.

O. Danjuma Esq appeared for the 1st – 4th respondents.

J.P. Ebenezer Esq appeared for the 5th respondent.